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STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD  
BOARD MEETING

JOE SERNA JR., CAL EPA BUILDING  
CENTRAL VALLEY AUDITORIUM  
1001 I STREET, SECOND FLOOR  
SACRAMENTO, CALIFORNIA

TUESDAY, DECEMBER 14, 2004

9:33 A.M.

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

A P P E A R A N C E S

BOARD MEMBERS PRESENT:

ROSARIO MARIN, Chair  
LINDA MOULTON-PATTERSON  
ROSALIE MULE  
MICHAEL PAPARIAN  
CHERYL PEACE  
CARL WASHINGTON

STAFF PRESENT:

MARK LEARY, Executive Director  
MARIE CARTER, Chief Legal Counsel  
JULIE NAUMAN, Chief Deputy Director  
DEBORAH MCKEE, Board Assistant  
TONI JIMENEZ, Board Secretary

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 P R O C E E D I N G S

2 --oOo--

3 BOARD CHAIR MARIN: Good morning. It is my  
4 pleasure to call to order the meeting of the California  
5 Integrated Waste Management Board.

6 And to do that, will you please call the roll,  
7 Toni Jimenez?

8 BOARD SECRETARY JIMENEZ: Moulton-Patterson?

9 BOARD MEMBER MOULTON-PATTERSON: Here.

10 BOARD SECRETARY JIMENEZ: Peace?

11 (Not present.)

12 BOARD SECRETARY JIMENEZ: Mule?

13 BOARD MEMBER MULE: Here.

14 BOARD SECRETARY JIMENEZ: Paparian?

15 BOARD MEMBER PAPARIAN: Here.

16 BOARD SECRETARY JIMENEZ: Washington?

17 (Not present.)

18 BOARD SECRETARY JIMENEZ: Marin?

19 BOARD CHAIR MARIN: And I'm here. I know Mr.  
20 Carl Washington is arriving a little bit late, his plane  
21 got delayed so he's going to be joining us in a few  
22 moments.

23 And I see Ms. Peace walking in, so mark her as  
24 here.

25 Mr. Paparian, would you please lead us in the

1 Pledge of Allegiance?

2 (Thereupon the Pledge of Allegiance was  
3 recited.)

4 BOARD CHAIR MARIN: Okay. Let me state a few  
5 things that we need to, some just minor items. First of  
6 all, I want to ask everybody to turn off their cell  
7 phones or at least put 'em in meeting -- what do you  
8 call it? -- mode, so that we don't know how important  
9 you are and that everybody is calling you.

10 We have speaker slips in the back of the room.  
11 You are welcome to address the Board during the items  
12 that are, that the Board has for discussion, or during  
13 the public input session. And the public input is done  
14 at this very beginning of the meeting. So if you would  
15 like to address the Board on items that are not on the  
16 agenda, then please feel free to do so during public  
17 comment.

18 We will have, it is my intent to deal with all  
19 of the Board issues before we go to lunch. Staff  
20 will -- I'm sorry. The Board will go into closed  
21 session during the lunch period. We will have a working  
22 lunch. And it is the intent of this Board to hear the  
23 Gregory Canyon item immediately after lunch, which we  
24 suspect would be around 1:00 o'clock in the afternoon.

25 And with that, before I call the members I'm

1 going to find out if there are any ex-partes that we  
2 need to put on the record.

3 Ms. Moulton-Patterson?

4 BOARD MEMBER MOULTON-PATTERSON: I'm up to  
5 date.

6 BOARD CHAIR MARIN: Ms. Peace?

7 BOARD MEMBER PEACE: I'm also up to date.

8 BOARD CHAIR MARIN: Ms. Mule?

9 BOARD MEMBER MULE: Up to date.

10 BOARD CHAIR MARIN: And Mr. Paparian?

11 BOARD MEMBER PAPARIAN: I'm up to date.

12 BOARD CHAIR MARIN: Excellent. Just for the  
13 record, maybe I'll do this at the time of the item, read  
14 all of the ex-partes. Let me think.

15 Should I read the ex-partes now or wait until  
16 the item comes up.

17 CHIEF LEGAL COUNSEL CARTER: You might want to  
18 wait until the item comes up.

19 BOARD CHAIR MARIN: That what I thought. Okay.  
20 what that, let's hear what we've been doing in the last  
21 very short month actually.

22 Any member reports? Ms. Moulton-Patterson?

23 BOARD MEMBER MOULTON-PATTERSON: Thank you very  
24 much. I have one very important announcement today.  
25 And it's with excitement but also with regret Ms.

1 Deborah McKee, our very fine clerk, has been accepted to  
2 the University of Montana and, to further her studies.  
3 And we're so proud of her. But that means that in May  
4 she'll be departing from our Board.

5           And I'm really excited because she has a great  
6 career ahead of her. I just think she's fantastic as I  
7 know all of you do. She's done a terrific job for the  
8 Board, absolutely terrific. Dealt with so many  
9 personalities between staff, Board members, advisors,  
10 everybody, and she's kept it all together and just  
11 really, really surpassed all expectations.

12           But I'm really excited for her. I spent some  
13 time in Missoula, Montana, and it is beautiful, just  
14 beautiful. So I hope we can come visit.

15           But anyway, we're really proud of what you've  
16 done here, Deborah, and we wish you the best of luck.  
17 We get to have you for six more months, but we did want  
18 to announce that today.

19           And that ends my report.

20           BOARD CHAIR MARIN: Thank you very much. And  
21 we wish Debbie a lot of luck, although we still have you  
22 for another four months, we're not going to let you go  
23 before that.

24           BOARD ASSISTANT MCKEE: Six months.

25           BOARD CHAIR MARIN: Six months, Perfect,



1 excellent, better for us.

2 Ms. Peace?

3 BOARD MEMBER PEACE: Okay. This month I met  
4 with Randy Iosaki and Larry Orcutt from Caltrans again.  
5 We talked about a variety of issues related to  
6 rubberized asphalt concrete.

7 We agreed that our two agencies can both  
8 benefit by sharing our knowledge and research results.

9 We also agreed that we should cooperatively  
10 sponsor a RAC advisory group with the Waste Board taking  
11 the lead. And we can proceed with this possibly through  
12 an MOU. And my staff, with the help of the legal staff,  
13 will be working on this.

14 I am so encouraged about having a better  
15 working relationship with Caltrans, and I'm so hopeful  
16 that we'll see some real progress, mandate or no  
17 mandate, toward getting more RAC on our roads.

18 I also met with Senator Eschudia's office again  
19 about making some statutory changes to SB 876 that will  
20 help simplify the tire manifest system. We'll be  
21 looking to introduce legislation in January to make  
22 those changes.

23 And that concludes my report.

24 BOARD CHAIR MARIN: Thank you so very much, Ms.  
25 Peace.

1 Ms. Mule.

2 BOARD MEMBER MULE: Thank you, Chairwoman  
3 Marin.

4 On November 22nd and 23rd I attended some  
5 meetings with Santa Barbara city and county officials  
6 regarding conversion technologies. What's very  
7 interesting about that is that the city of, city of  
8 Santa Barbara there's a consortium of a couple of cities  
9 in south Santa Barbara County that have an RFP out on  
10 conversion technologies, and they're -- they've got  
11 some, they've short listed the group, and they were very  
12 interested in finding out where we were at the Board  
13 level with our reports and what direction we might be  
14 heading. So we just had some very interesting  
15 discussions and meetings and they're looking forward to  
16 working with us.

17 On November 30th and December 2nd I attended  
18 the two workshops that our staff conducted on AB 939  
19 diversion, on the AB 939 conversion compliance system.

20 And I just want to say that, once again, staff  
21 did, I think, an outstanding job of putting together the  
22 workshop, pulling information and input from the various  
23 stakeholders on how we can proceed with 939 and the  
24 whole diversion compliance systems.

25 Last weeks I did take a couple of tours. I

1 toured the Bradley Landfill in Los Angeles County as  
2 well as two of our grant recipients, Looney Bins, which  
3 is a C&D processing facility, as well as 3-D Plastics.  
4 And I'm very impressed with both facilities and what  
5 they're doing, and really can see the value of our grant  
6 dollars in helping, again, to meet our diversion goals  
7 for this state.

8 That concludes my report. Thank you, Madam  
9 Chair.

10 BOARD CHAIR MARIN: Excellent. Thank you, Ms.  
11 Mule.

12 And Mr. Paparian?

13 BOARD MEMBER PAPARIAN: Thank you, Madam  
14 Chair. Actually you and I both attended the L.A. Shares  
15 Shopping Day at their facility in Griffith Park. They  
16 are able to collect material that would otherwise be  
17 discarded from businesses, studios, others in the Los  
18 Angeles area, and get it to non-profits and schools.

19 And they actually have a facility, it's kind of  
20 like a Staples or Office Max for free for those who come  
21 and utilize it. And you can get almost any kind of  
22 office supply or furniture that they need, and very  
23 impressive operation they have in reuse.

24 And I'm actually hoping in the next few months  
25 maybe we can put some emphasis on those who are really

1 promoting reuse throughout the state, I think there's  
2 some good things going on there.

3           On November 29th I attended the training  
4 session for handlers of universal waste, electronic  
5 devices, CRT's. It was put on by our staff and the  
6 Department of Toxic Substances Control.

7           For those who are going to be working on  
8 implementation of the e-waste legislation, I think there  
9 were about three hundred or more businesses and local  
10 governments who attended those trainings that were held  
11 throughout the state.

12           I also attended the diversion workshops that  
13 Board member Mule mentioned. Board member Mule and I  
14 and Mark Leary attended the Governor's environmental and  
15 economic awards. There's some very impressive  
16 businesses and organizations out there that received  
17 awards.

18           I see Andrea here in the audience who puts that  
19 together and did a great job of putting together the  
20 ceremony and assuring appropriate honors for those  
21 businesses and others.

22           And then finally I attended the food waste  
23 large, food waste diversion at large venues workshop  
24 held here in this room. Our staff did a very good job  
25 of pulling together some of the more innovative people

1 in that area and sharing information with quite a few  
2 folks who were interested in what's going on there.

3 And you know, again I want to single out the  
4 E-waste group, Shirley Wagner and her team. They're  
5 gearing up for the January 1st implementation of the  
6 E-waste legislation. At a time when a lot of us are  
7 kind of winding down for the holidays they're gearing  
8 up, trying to process hundreds of applications for  
9 collectors and recyclers, get those posted on the  
10 website, answer questions, and assure that the program  
11 gets implemented on January 1st. They're really doing a  
12 fabulous job on that.

13 BOARD CHAIR MARIN: Thank you, Mr. Paparian.  
14 And they, in fact, are working very, very hard, and I  
15 know they're going to be very successful in their  
16 implementation.

17 I asked everybody to have, to see if they had  
18 any ex-parte and they did a great job and I failed to  
19 mention mine, isn't that amazing?

20 I just said hello to Mr. Paul O'Neal and was,  
21 that is not the former Secretary of the Treasury. He's  
22 with Paul O'Neal and Associates, and he's actually going  
23 to be communicating to the Board during public input.

24 And I also said hello to my friends from the  
25 City of Burbank, and we're going to be talking to them

1 in a little while.

2 In addition, I, you're absolutely right, Mr.

3 Paparian, we had a great opportunity to see L.A.

4 Shares. We need to have programs like that duplicated

5 throughout the state.

6 And what was interesting, and might remember

7 that the people from the city of Santa Ana were there

8 because they want to replicate that as well. And it's

9 at the local level that all of the exchange is taking

10 place from businesses that do not need, that they have

11 extras, things that would end up, that are still useful

12 but they have no need for it, with non-profit

13 organizations that need those items. And it's all done

14 for free. People go out there and shop and they don't

15 have to pay anything. That was amazing.

16 I attended the WRAP awards in Torrance,

17 California. We had quite a few from the south Bay

18 Area. We had quite a few, I think it was twenty. Carl

19 Washington and I, Board member Washington and I attended

20 that, and I think there were about twenty members,

21 twenty businesses that were recognized for that.

22 We had the press conference that many of our

23 members attended. Thank you, Linda, for coming to that,

24 that was very, very nice. And Carl also attended that.

25 Finally the work is being done, the mountain is

1 coming down, and who could say that we could move  
2 mountains? We have, and it's amazing. We should have a  
3 before and after pictures when, when it's completely  
4 removed. We're very excited about that.

5 I visited the landfill at the city of West  
6 Covina and met with the mayor and the staff there for  
7 their issues.

8 We had a very nice Thanksgiving. We attend  
9 the Governor's conference, many of the women, twelve  
10 women from this Board attended. We had a very, very  
11 good time in the sense that as women we were along with  
12 about 10,000 other women just recently last week.

13 And yesterday, except for Mr. Carl Washington  
14 who will be here later on, this Board participated in a  
15 very nice skit for our employees' holiday party. We had  
16 a great time. I hope our employees did as well. They  
17 should have because we kind of looked funny.

18 But, you know, this is a great time to thank  
19 not just the members of the Board and the staff and the  
20 executive staff, but every single employee that works  
21 for this great Board. We want to thank 'em all for  
22 doing the great work that they do.

23 And, you know, sometimes people don't realize  
24 that we do notice, you know. And whether it is  
25 individual members or as a whole, we know what you are

1 doing, we know how hard you work, and we're much better  
2 off because of it, including Jon Myers who did an  
3 incredible job yesterday. We would give you a standing  
4 ovation, John, but we're not going to do that.

5 But everybody has. And I know sometimes it's  
6 difficult and people wonder whether anybody notices or  
7 anybody cares, and I can tell you from every single  
8 Board member up here, we do, we appreciate the work that  
9 you do, we appreciate your professionalism, and we  
10 certainly admire what you do and the commitment that you  
11 have.

12 So with that, we're going to start our Board  
13 meeting. And let's see, we have some reports and  
14 presentations.

15 Mr. Leary, do you have a report?

16 EXECUTIVE DIRECTOR LEARY: Thank you, Madam  
17 Chair, good morning. Good morning, members.

18 First of all, let me say thank you for that,  
19 expressing your appreciation, Madam Chair.

20 For those public stakeholders, you couldn't be  
21 here but you should have been here yesterday to see the  
22 Board members in their pajamas doing The Night Before  
23 Christmas. It was quite fun, and I think the staff  
24 especially appreciated the Board members' willingness to  
25 engage in the entertainment and have a good time



1 together. We broke down some walls and had a great,  
2 great little holiday party.

3 BOARD MEMBER WASHINGTON: You did destroy all  
4 the negatives, right?

5 (LAUGHTER.)

6 EXECUTIVE DIRECTOR LEARY: Keep your eye on the  
7 Board website, have we got the goods on these folks.

8 A couple of business items. One in regards to  
9 the fire storm waivers. It's been about a year now  
10 since the counties of San Diego, L.A. and San Bernardino  
11 were severely affected by the devastating fires that  
12 required declarations of local and state emergencies to  
13 galvanize effective responses.

14 The fires destroyed huge numbers of homes and  
15 properties throughout the area. You will recall the  
16 LEAs in these counties and the City of San Diego granted  
17 emergency waivers to the operations of various solid  
18 waste management operations and facilities. This was to  
19 assist in the cleanup and rebuilding efforts in the  
20 affected communities.

21 I want to take this opportunity to provide a  
22 final update on the status of those emergency waivers,  
23 which all terminated at the end of last month and are  
24 not being extended.

25 The LEAs and operators together have reported

1 that from November, 2003 until now, a total of  
2 approximately 141,000 tons of fire related debris was  
3 received for processing and disposal at the solid waste  
4 management operations and facilities in those three  
5 counties.

6 In addition, almost 25,000 tons of material,  
7 metals, wood, asphalt, and concrete were diverted from  
8 the fire debris and recycled for beneficial use.

9 And then Madam Chair and a couple of the  
10 members mentioned, of course, the very successful press  
11 conference we had in relation to moving the mountain of  
12 La Montana. I mentioned yesterday as part of our little  
13 holiday get-together that I thought it was one of the  
14 highlights of 2004 for the Board.

15 On November 18th our Office of Public Affairs  
16 had a press conference to announce the beginning of this  
17 effort, and the Chair and Board members  
18 Moulton-Patterson and Washington participated. It was  
19 perhaps the most successful event we ever sponsored  
20 media-wise. Six television stations sent news crews to  
21 the event, and there were two news helicopters overhead.

22 In just a minute we'll roll some tape of that  
23 coverage.

24 At the event two ceremonial truckloads of  
25 debris were loaded and hauled off the site. Full scale

1 removal activities didn't begin until last week when 425  
2 truckloads of material were shipped, an estimated seven  
3 and a half percent of the total volume of material.

4 This effort represents an enormous  
5 accomplishment for this Board and for the community.  
6 It's something we can all be proud of.

7 So now I'd like to show you a quick video clip  
8 of the coverage we got for that event. And with the  
9 conclusion of the clip that will conclude my report.

10 (Thereupon there was a video presentation.)

11 BOARD CHAIR MARIN: Wow, thank you. Thank you  
12 all for that. It was a great effort of this Board and  
13 it's finally paying off. So we should all be proud  
14 about that.

15 And Ms. Patterson -- Moulton-Patterson, you  
16 want to say something?

17 BOARD MEMBER MOULTON-PATTERSON: Thank you. I  
18 just, in my excitement and about -- oops -- I didn't  
19 mention La Montana, and I just want to say a personal  
20 thanks to Scott walker and everybody that helped. I  
21 know you got so tired of me asking about it for the last  
22 two years. And I know I made everybody uncomfortable,  
23 including Mr. Leary, by my persistence, but I do  
24 appreciate the followup.

25 And I think it is, as you said, something we

1 can all be proud of. And I know it's one of, if not the  
2 most proudest accomplishments of my time here.

3 And thank you, Scott, you of all, everybody's  
4 worked hard on it, but you really followed up. Thank  
5 you.

6 BOARD CHAIR MARIN: Thank you, Ms. Patterson  
7 the -- Moulton-Patterson. It was also very nice when  
8 you explained to all of us there that you actually,  
9 Huntington Park is pretty special to you. You went to  
10 school there.

11 BOARD MEMBER MOULTON-PATTERSON: My mother.

12 BOARD CHAIR MARIN: Your mother, your mother  
13 graduated there?

14 BOARD MEMBER MOULTON-PATTERSON: Yes, I lived  
15 in Maywood which is an area --

16 BOARD CHAIR MARIN: Right next to that. Thank  
17 you. So that was very nice.

18 And we had or we have the opportunity to  
19 highlight another city. You know, sometimes, I was  
20 talking to the City of Burbank, we have some people out  
21 there who I call them my recognizant team. They go out  
22 there throughout the state and find out who's doing a  
23 great job.

24 And it came to our attention that the City of  
25 Burbank did something special, and I'd like to present a

1 resolution to the City of Burbank. But before I do that  
2 I'd like to read it off.

3 And it says,

4 "The California Integrated Waste  
5 Management Board commending the City of  
6 Burbank.

7 Whereas the City of Burbank has  
8 long focused on  
9 sustainable building.

10 And whereas the City of Burbank has  
11 demonstrated its leadership to  
12 effectiveness waste management through  
13 the adoption of the voluntary green  
14 building and sustainable architecture  
15 ordinance, thereby setting an example  
16 for other jurisdictions in the state.

17 And whereas sustainable building  
18 practices encourage and contribute to  
19 effectiveness integrated waste  
20 management for California enabling the  
21 city to exceed the waste diversion  
22 mandate of the Integrated Waste  
23 Management Act of 1989.

24 And whereas this voluntary  
25 ordinance is designed to encourage the

1 use of sustainable design to create  
2 high performance buildings that  
3 minimize the impact on the environment  
4 by promoting reduced energy  
5 consumption, reduced water consumption,  
6 improve indoor and outdoor air quality,  
7 the use of renewable resources, the  
8 recycling of materials, and an increase  
9 in the quantity of construction and  
10 demolition debris diverted from  
11 landfills.

12 And whereas the City of Burbank  
13 supports the U.S. Green Building  
14 Council LEED rating system, which  
15 establishes energy efficiency and  
16 sustainability standards for developers  
17 and builders to incorporate into their  
18 construction projects.

19 And whereas the City of Burbank has  
20 recognized its ability to influence  
21 construction projects and practices  
22 through fee reductions, and to  
23 encourage the use of portable tie and  
24 solar heating systems through fee  
25 waivers.

1           And whereas the enactment of this  
2           ordinance demonstrates the city's  
3           leadership to environment stewardship  
4           and to reducing the environmental  
5           impacts associated with construction  
6           projects.

7           Now, therefore, be it resolved that  
8           the California Integrated Waste  
9           Management Board does hereby commend  
10          the City of Burbank for its outstanding  
11          dedication to sustainable building and  
12          effective waste management strategies."

13          And it is signed by all of us. And we want to  
14          call Ms. Murphy, councilmember Murphy to come and  
15          receive that. Thank you.

16          MS. MURPHY: And if it's -- is this on?

17          If it's okay I'd like our city staff to come  
18          down and accept this because they're the ones who did  
19          the work.

20          Thank you very much. Thank you so much.  
21          First, thank you very much for this. But sitting and  
22          listening to what's been going on this morning, I have  
23          to tell you, you have an amazing Board. You all seem so  
24          enthusiastic and dedicated to what you're doing, have  
25          such a great attitude, thank you for representing the

1 state. This is really, really good. I'd like to  
2 introduce our city engineer, Bonnie Teifert, so she can  
3 introduce her staff.

4 And as enthusiastic as you guys are, they have  
5 you beat. Our staff is just tremendous. They work so  
6 hard, so diligently, and not, believe it or not, not  
7 everybody in the building industry was really in favor  
8 of this, they didn't all like it. But they were not  
9 swayed at all, and they went forward and just came up  
10 with a great plan. And I hope it's going to do a lot of  
11 good. And I hope we can be a poster child for other  
12 cities to follow along.

13 So I'd like to introduce Bonnie to introduce  
14 her staff to you, please.

15 MS TEIFERT: Thank you, Stacey, and thank you,  
16 Board. This is truly an honor for the City of Burbank.  
17 We've always been proud of the fact that we've either  
18 met or exceeded the AB 939 goals even before AB 939 was  
19 passed, so we feel that we're just carrying on this  
20 tradition.

21 I'd like to introduce our Assistant Community  
22 Development Director and our building official, John  
23 Chang. He was, spearheaded the operation.

24 And our Assistant building official Tom Sloan,  
25 who is really the brains behind this, and the real



1 spirit behind the ordinance, and managed to work with  
2 all the builders in the community to get this passed.

3 So thank you all.

4 BOARD CHAIR MARIN: We do have some recyclable  
5 stuff and recyclable things.

6 MS. TEIFERT: Goody bags.

7 BOARD CHAIR MARIN: Thank you so much.

8 (APPLAUSE.)

9 BOARD CHAIR MARIN: Ms. Moulton-Patterson, did  
10 you want to say something too?

11 BOARD MEMBER MOULTON-PATTERSON: No, I, it just  
12 stayed on.

13 BOARD CHAIR MARIN: Okay. Perfect. Well thank  
14 you. Thank you to the City of Burbank, we wish you  
15 luck. Thank you.

16 Okay. With that we go to public comment.  
17 Anybody that wishes to address the Board on items not  
18 included in the agenda you're welcome to come in and  
19 address, just fill out a speaker's form and they'll come  
20 in and do that.

21 So far we have Mr. Paul O'Neal from Enviropel,  
22 Incorporated.

23 MR. O'NEAL: Thank you, Chairwoman Marin.  
24 Chairperson Marin and members of the Board, my name is  
25 Paul O'Neal, and I do come here today representing

1 Enviropel, Inc., and I have offices both in Riverside  
2 County and San Diego County.

3           And originally I came here to discuss proposed  
4 rule changes for conversion technologies.  
5 Unfortunately, my mistake, this is not agendaized today,  
6 but nonetheless I'm here and I was able to renew an old  
7 acquaintance which is good, that's a good thing.

8           And having come all this way I will nonetheless  
9 do something I've never done in forty years of public  
10 discourse, and that's to read a document because likely  
11 there won't be any discussion not being on the agenda.  
12 I left fifteen copies of this letter, and the issues  
13 that I discuss and it's brief, very, very brief.

14           We will continue to work with your fine staff,  
15 and when these issues do come before you we'll all be  
16 better prepared. So I put on my recycle eyeglasses.

17           Honorable Board members, Enviropel,  
18 Incorporated was awarded a contract with San Diego Gas  
19 and Electric to provide renewable energy from a facility  
20 located in Fallbrook, California.

21           The Public Utilities Commission approved this  
22 power purchase agreement in June of this year, including  
23 provisions to allow Enviropel to build renewable  
24 energy power facilities throughout the State of  
25 California.

1           Operational in 2006, this one renewable energy  
2   facility will account for approximately seven percent of  
3   the total biomass energy generated in the State of  
4   California. It is the first of several. Our company  
5   plans to construct over the next several years with G.E.  
6   Financial Services as our strategic partner.

7           We set out to design a highly reliable  
8   renewable energy facility with technology that will  
9   reutilize green waste supplies to resolve a disposal  
10  problem in the San Diego County region, the southern  
11  region.

12          The result of design effort is a technology  
13  that can convert many types of waste streams to energy  
14  cleanly, and to set new standards for ultra low  
15  emissions, low water use, low visual impact, profile  
16  impact, and increased operational up time availability  
17  to 95 percent. Being in the energy field for those  
18  forty years, that's quite an achievement.

19          We have learned during our development efforts  
20  that if the permitting issues and technology definitions  
21  are addressed, the facility design and technology would  
22  be capable of utilizing over 50 percent, 50 percent of  
23  the solid waste streams typically generated in urban  
24  areas, and almost 85 percent of the waste streams from  
25  rural areas.

1           From those waste streams we estimate the  
2 facilities utilizing this type of technology would be  
3 capable of providing roughly six percent of our state's  
4 total electric energy needs, including a substantial  
5 portion of the state mandate for renewable portfolio  
6 standard energy.

7           Energy generated from these facilities would  
8 also be considered distributive generation, greatly  
9 improving the overall reliability of the state grid.

10          The net impact on the solid waste going into  
11 state landfills would be a reduction of approximately 65  
12 percent. This is a significant effort.

13          In reviewing the current rules, regulations,  
14 and statutes for permitting, operation, diversion  
15 credits and material handling between various state  
16 agencies, we have found some inconsistencies that  
17 significantly discourage energy generation from waste  
18 streams. These four areas are:

19          One, diversion area credit determination by  
20 type of material or facility. Definitions of what  
21 things are biomass, incineration, and waste to energy.

22          Transformation facilities based on fuel type,  
23 not technology used.

24          Statutes denying the use of certain types of  
25 waste streams for energy generation.

1           And finally, a good deal of confusion over who  
2 is the lead agency on these efforts.

3           Environmental -- Enviropel does not believe  
4 that the proposed rule changes under consideration, the  
5 ones that we will be discussing with your staff, not  
6 today, address these issues in a manner to encourage  
7 renewable biomass energy production.

8           Recognizing your commitment to the revival of  
9 the biomass industry, Enviropel suggests that the Board  
10 consider delaying any decisions on the proposed rule  
11 changes, and you're already doing that, until the  
12 following points can be properly evaluated.

13           Firstly, expand the Waste Management Board  
14 definition of biomass to be more consistent with the  
15 Energy Commission and National Energy Policy definitions  
16 of biomass, which includes the waste, the use of waste  
17 streams.

18           Amend the existing rules and regulations to  
19 reflect this change in the definition of biomass.

20           Pursue legislative assistance to more closely  
21 align the statutes governing the Waste Management Board  
22 with those of the statutes that govern the Energy  
23 Commission for this type of energy generation.

24           Number four, tie the diversion credit issues to  
25 low emissions performance of the facility use and

1 conversion of the waste stream.

2 In essence, if it can be converted to energy  
3 with emissions less than or equal to the natural gas  
4 generation, then please award diversionary credits.

5 It's our belief that these issues can be  
6 addressed in a timely manner that will encourage the  
7 revitalization of the industry. Enviropel offers its  
8 assistance to the Board in the pursuit of these goals,  
9 and looks forward to working with you. And we're  
10 already working with your staff, and we greatly  
11 appreciate their help and their ears.

12 Thank you very much.

13 BOARD CHAIR MARIN: Thank you, Mr. O'Neal, and  
14 I know that Mr. Paparian has a question, but as you  
15 know, because it's public input and it's not on the  
16 agenda, we can't thoroughly discuss it.

17 MR. O'NEAL: I understand that. And just in  
18 case, just in case I did bring Enviropel's company  
19 president here today, Mr. Anthony Arand, but he's just  
20 going to have to just sit there and twiddle his thumbs.

21 So thank you very much for your time.

22 BOARD CHAIR MARIN: Thank you, and thank you to  
23 the president as well.

24 BOARD MEMBER PAPARIAN: Can I ask you a  
25 question?

1 BOARD CHAIR MARIN: Yes, go ahead, Mr.

2 Paparian.

3 MR. O'NEAL: Yes, sir.

4 BOARD MEMBER PAPARIAN: You've gotten some

5 approvals from the PUC, are you close to siting a

6 facility?

7 MR. O'NEAL: We will, before this month is out,

8 have our application with the California Energy

9 Commission. We've been working with them for several

10 months and the document's almost complete and will go to

11 them.

12 We have the site, we have the application, we

13 have the contracts.

14 BOARD MEMBER PAPARIAN: How big a facility is

15 it?

16 MR. O'NEAL: Seventy megawatts.

17 BOARD MEMBER PAPARIAN: And how much fuel, how

18 much tonnage would it use about?

19 MR. O'NEAL: I'm not certain of that, we can

20 ask Mr. Arand to come down and answer that question.

21 BOARD MEMBER PAPARIAN: I can get to him during

22 the break maybe.

23 MR. O'NEAL: Certainly, he'd like that.

24 BOARD MEMBER PAPARIAN: And is that in Southern

25 California?

1           MR. O'NEAL: It is in Fallbrook which is in the  
2 northern part of San Diego County.

3           BOARD MEMBER PAPARIAN: Okay. Thank you.

4           MR. O'NEAL: You're welcome.

5           BOARD CHAIR MARIN: Thank you, Mr. O'Neal. I  
6 don't see anymore public input, we don't have anymore.

7           Okay. Well with that, we'll go into, no  
8 continued business agenda items, we don't have any of  
9 those.

10          New business agenda items. We will go into the  
11 consent calendar rather. For the consent calendar, I am  
12 going to call all of the items that are on consent  
13 calendar. Excuse me.

14          Item number 1, number 4, 5, 8, 9, 10, 11, 12,  
15 13, 14, 15, 24, 25, 31, and 36.

16          If there's anybody -- I have to ask this  
17 question. Is there anybody who wishes to remove any  
18 items from the consent calendar?

19          Okay. Is there a motion?

20          BOARD MEMBER MULE: Move approval.

21          BOARD MEMBER PAPARIAN: Second.

22          BOARD CHAIR MARIN: Moved by Ms. Mule, seconded  
23 by Mr. Paparian the consent calendar.

24          Please call the roll, Toni.

25          BOARD SECRETARY JIMENEZ: Moulton-Patterson?



1 BOARD MEMBER MOULTON-PATTERSON: Aye.

2 BOARD SECRETARY JIMENEZ: Peace?

3 BOARD MEMBER PEACE: Aye.

4 BOARD SECRETARY JIMENEZ: Mule?

5 BOARD MEMBER MULE: Aye.

6 BOARD SECRETARY JIMENEZ: Paparian?

7 BOARD MEMBER PAPARIAN: Aye.

8 BOARD SECRETARY JIMENEZ: Marin?

9 BOARD CHAIR MARIN: Aye. Okay. The next item,  
10 let's see. Let me just, for those of you that follow  
11 the agenda. There were items number 3, 6, 7, 16, 22,  
12 23, and 33 that were heard in committee only, and we  
13 will not be addressing them on the Board.

14 In addition to that, we had two items that were  
15 pulled, item 26 and 28.

16 So that leaves us with a few items that we need  
17 to deal with, a few items that were fiscal consent we'll  
18 hear them during the different committee meetings.

19 So the first item, the first committee that we  
20 will be dealing with is Sustainability and Market  
21 Development.

22 Mr. Paparian, your report.

23 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.  
24 We heard seventeen items in the committee. Eleven of  
25 them we just dealt with on consent.

1           One of 'em is on fiscal consensus, and one to  
2 the full Board.

3           And then the remaining four were heard in  
4 committee only. Those included rulemaking direction  
5 related to RMDZ loan regulations, those are going out  
6 for another fifteen day comment period.

7           We heard the highlights of the International  
8 Dialogue on Zero Waste held in conjunction with the  
9 National Recycling Congress a couple of months ago.  
10 Gary Liss and Rick Anthony gave us a really  
11 comprehensive presentation. And we had a good  
12 discussion. I think we talked about a number of things  
13 that we might do to follow up from that, including maybe  
14 finding some opportunities to provide additional  
15 training to recycling coordinators throughout the state.

16           We heard a status report on large venue and  
17 event diversion programs. I know the Chair was  
18 especially anxious to assure that next year's Governor's  
19 Women's Conference is as close to zero waste as  
20 possible, and that they incorporate a lot of the latest  
21 thinking in how to deal with large events and venues.

22           And then we heard from the Desert Sands Unified  
23 School District's Environmental Ambassador Program. Had  
24 an excellent presentation from them, there's going to be  
25 a final report available in a few months, and I think

1 there may be a summary even on our website at this  
2 point.

3 BOARD CHAIR MARIN: Excellent. So that leads  
4 us to item number two. Patty, you're going to make that  
5 presentation?

6 MS. WOHL: Yes. Good morning, Madam Chair,  
7 Board members, Patty Wohl from the Waste Prevention and  
8 Market Development Division.

9 This item was on fiscal consent, consideration  
10 of the awards for the reuse assistance grants program,  
11 fiscal year 2004-2005. It is for \$250,000, and will be  
12 awarded to the top six applicants as identified in the  
13 revised resolution.

14 Also the committee recommended that the last  
15 sentence be struck to provide flexibility in  
16 distributing any future allocations, but that the  
17 sentence with the asterisks, I believe, would remain,  
18 allowing to fully fund the Riverside project should the  
19 money be available. So that's why there was kind of two  
20 changes there. So you have the most recent one.

21 As I mentioned, the Sustainability and Market  
22 Development Committee voted unanimously to approve the  
23 revised resolution but did indicate that they would want  
24 to review the criteria for the next round of reuse  
25 grants to see if they should reinstate the north/south

1 split, or modify the criterion in some other way.

2 Staff recommends that the Board approve of  
3 Resolution 2004-317, revision three, that includes the  
4 asterisked sentence but deletes the last sentence.

5 BOARD CHAIR MARIN: Okay. Any questions?

6 Ms. Peace.

7 BOARD MEMBER PEACE: I just had a couple of  
8 questions. On the first page here it says we only have  
9 \$250,000, but yet we had over a million dollars worth of  
10 requests. It says, "If additional funds become  
11 available, staff requests permission to enter into grant  
12 agreements with the other applicants."

13 Where might additional money come from?

14 MS. WOHL: Well probably this year it's less  
15 likely, and that's the sentence that was struck. But in  
16 the past there has --

17 BOARD MEMBER PEACE: Oh, okay, it was struck?

18 MS. WOHL: Yeah, in the revision I think that's  
19 the sentence that was taken out. You have revision  
20 three? I think they just handed it out.

21 So in the past there have been opportunities  
22 for reallocation items with IWMA, but the likelihood is  
23 probably slim.

24 BOARD MEMBER PEACE: Yeah, because they all  
25 sound like great projects I wish we could, you know,

1 fund them all.

2 Here it says, "The purpose of the reuse grants  
3 is to establish or expand reuse infrastructure that will  
4 continue beyond the term of the grant."

5 Do we have any data or followup information on,  
6 to show if any of the previous grantees were able to  
7 continue their programs?

8 MS. WOHL: I'd probably have to refer to Sarah,  
9 she's in the audience. But we do have criteria that  
10 says, sometimes a grant will propose a one day event or  
11 that type of event, and we give extra criteria points if  
12 it's, they're matching these funds and it's an ongoing  
13 program that they're implementing.

14 We did give a reuse assistance overview  
15 recently, so we may have kind of looked to see which  
16 ones were still working. So Sarah, maybe you could --

17 MS. WEIMER: Good morning, Madam Chair, members  
18 of the Board, Sarah Weimer with the Waste Prevention,  
19 Market Development Division and the Reuse Assistance  
20 Grants Program.

21 As Patty mentioned, we did provide the Board an  
22 overview in June regarding all of the grant programs  
23 that had been funded in the past. I'd be more than  
24 happy to follow up and provide you with additional  
25 information regarding the longevity of programs.

1           The majority of the programs are continuing  
2 once the grant term is over. The grant funds usually  
3 served as just more of a method of kick starting the  
4 grant programs that normally would not be able to begin  
5 without grant funding.

6           BOARD MEMBER PEACE: Okay. Thank you.

7           BOARD CHAIR MARIN: Mr. Paparian.

8           BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

9           I'd like to move Resolution 2004-317, revision  
10 three, regarding the reuse assistance grants for FY  
11 2004-2005.

12          BOARD MEMBER MULE: Second.

13          BOARD CHAIR MARIN: Okay. Moved by Paparian,  
14 seconded by Mule. Without objection we will have the  
15 same vote that we did the last time. Or how it's said,  
16 that we will substitute the previous roll call.

17          The next item will be item number 17. Pat.

18          MR. SCHIAVO: Good morning, Pat Schiavo of the  
19 Diversion Planning and Local Assistance Division.

20          And item 17 is an oral presentation regarding  
21 the study update statewide characterization and disposed  
22 waste.

23          This is our first characterization effort since  
24 1999, and information from this effort is pretty much,  
25 is our road map that our partners and ourselves use,

1 local jurisdictions, service providers, and others.

2 This helps us target and prioritize those materials for  
3 future diversion efforts.

4 Making the presentation today will be Charlie  
5 Scott from Cascadia Consulting along with Nancy Carr of  
6 Board staff.

7 BOARD CHAIR MARIN: Charlie. Who is it, Nancy?

8 MR. SCOTT: Good morning, Madam Chair and  
9 members of the Board. Thank you very much for allowing  
10 me to present the findings from the 2003 Statewide Waste  
11 Characterization Study. And I believe we have some  
12 slides coming up.

13 I am not in a coat and tie every day. I spend  
14 a lot of time in landfills and transfer stations  
15 characterizing waste, and that actually means sampling,  
16 sorting, sorting garbage.

17 And what I would like to do this morning is  
18 share with you the results of our sampling and sorting  
19 events during 2003 and 2004 in California to  
20 characterize the overall disposal waste stream as well  
21 as specific sectors or components of that.

22 First of all, though, I want to review the  
23 objectives of the study, those objectives, and provide  
24 you an overview of our approach.

25 I'd also like to note that staff were involved

1 every step of the way in this process. They were  
2 instrumental in designing the study. They oversaw our  
3 work out in the field, and they helped develop the  
4 analytical methods that we used.

5 With that, I'll move into our objectives. The  
6 first objective was simply to quantify the types and  
7 amounts of materials disposed in the overall California  
8 waste stream. The primary goal was to identify those  
9 materials that could be reused, recycled, or composted.

10 In this characterization effort we not only  
11 looked at the overall waste stream, but we looked at the  
12 waste stream produced by what we referred to as  
13 substreams or sectors, including commercial,  
14 residential, and self-hauled waste.

15 Commercial waste is primarily picked up in  
16 front end loaders and drop boxes from businesses and  
17 institutions, whereas the residential waste is the waste  
18 that you, we put out at the curb in our cans. The  
19 self-hauled waste stream is materials that you might  
20 take to a landfill or a transfer station, but most of  
21 it, most predominantly it's waste delivered to these  
22 disposal facilities by landscapers, contractors, or  
23 other small businesses.

24 In addition to looking at the standard list of  
25 materials, we added some additional materials this year



1 around, including electronic items, items that were of  
2 interest including computers, CRT's, certain plastic  
3 films that are recoverable, grocery store merchandise  
4 bags, as well as looking at CRV containers and, for the  
5 Department of Conservation, and characterizing and  
6 quantifying the type and amount of RPPC's, rigid plastic  
7 packaging containers, that are disposed in the waste  
8 stream. So those are our objectives.

9           Moving onto the overview of our process. First  
10 of all we collected data in five regions of the state  
11 throughout the state. The reasons for doing this was to  
12 ensure that our data was representative not only of  
13 demographic variables, but also of geography, climate,  
14 as well as seasons and other factors that may affect  
15 waste generation and disposal.

16           Unlike previous studies that characterized  
17 waste at certain specific business types, such as  
18 restaurants, hotels, retail stores, and so forth, this  
19 study, due to budget constraints, only characterized  
20 waste that was delivered to disposal facilities in  
21 vehicles.

22           The first step in this process was to survey  
23 over 4,000 vehicles at 22 facilities. We surveyed all  
24 the vehicles coming into the sites where we were  
25 conducting our waste characterization study.

1           We then sampled, and by sampled I mean hand  
2 sorted, 550 loads of waste coming into these 22  
3 facilities. 200 commercial loads, 110 single family  
4 loads, forty samples actually from dumpsters at  
5 multi-family sites, and 200 self-haul loads.

6           The reason for allocating a greater number of  
7 samples to the commercial and to the self-haul streams  
8 was because we see a greater variability among loads of  
9 this type of waste, therefore we need more samples to  
10 provide us with comparable data.

11          Once we completed our, once we randomly  
12 selected our samples we then sorted that waste into 98  
13 material categories weighted to the nearest tenth of a  
14 pound, that includes 67 material categories defined by  
15 the CIWMB in their standard protocol, as well as 31  
16 categories of CRV's and RPPC's that were used to define  
17 the types of containers and material types and sizes.

18          Once we completed our field work we used the  
19 results of our surveys to quantify the waste by sector  
20 and then calculated average composition. That's the  
21 percentage of paper versus plastics versus metal and so  
22 forth in each of those sectors, again residential,  
23 commercial, and self-haul.

24          So let's take a look at waste quantities. The  
25 disposal reporting system yielded approximately forty

1 million tons of MSW being disposed in 2003. That was  
2 numbers that were reported by municipalities.

3 We used our survey data to then determine the  
4 contribution of each of our subsectors or substreams to  
5 the overall disposed waste in the state.

6 Those 4,000 surveys indicated or yielded  
7 findings that the commercial waste stream amounted to  
8 little less than half of the overall disposed waste.

9 Residential stream constituted about 30 percent  
10 of that disposed waste.

11 And the self-haul stream constituted about 20  
12 percent.

13 Of the residential stream, 75 percent of that  
14 is from single family residences, about 25 percent from  
15 multi-family residences. 20 percent of the self-hauled  
16 waste was from residential sources, 80 percent was from  
17 commercial sources.

18 So now we want to look at the waste composition  
19 highlights, and these are the results of our actual  
20 sampling and sorting of the waste. And these highlights  
21 are for the overall waste stream which is the result of  
22 the weighted average from the self-hauled residential  
23 commercials. This represents total waste stream.

24 As you can see, the largest slice of the pie  
25 there is the organic slice. That's comprised largely of

1 food and green waste.

2 Second, construction and demolition material,  
3 lumber, wood, aggregate such as concrete and asphalt,  
4 roofing materials, and so forth.

5 Paper would include corrugated newspaper, high  
6 grade printing and writing, mixed waste paper grades, as  
7 well as the soiled, contaminated paper.

8 And then you can see as the materials  
9 decreased, plastic, metals, and so forth.

10 Since we sorted this waste into 98 different  
11 categories, we were able to identify materials that were  
12 recyclable, compostable, or otherwise divertable. I  
13 might mention that, again, that primary goal was, of  
14 those materials that are still left, how much could be  
15 reused, as we've been talking about earlier this  
16 morning, how much could be reduced, how much could be  
17 recycled and composted.

18 What we've found is about 20 percent of the  
19 waste that's still disposed in California is recyclable.  
20 About a quarter of the waste overall again is  
21 compostable. And about another 16 percent is  
22 recoverable, constituted, comprised of recoverable C&D  
23 materials.

24 We also found that less than one percent of the  
25 disposed waste stream is RPPC, rigid plastic containers.

1 Point 87 percent, a little more than one percent of the  
2 disposed waste stream are CRV containers.

3 So the pie that we just looked at is organized  
4 or displays major, what we call major material classes.  
5 Paper, organics, construction and demolition debris.

6 This slide shows you, is referred to by us as  
7 the top ten. And what this is is the specific  
8 materials, the specific items that are most predominant,  
9 again in the California's overall waste stream.

10 And again you can see food is the largest item.  
11 It's a slice of the organic, or a piece of that organic  
12 slice of the previous pie.

13 Lumber is a piece of the C&D slice in our  
14 previous pie.

15 Cardboard, of course, would be a portion of the  
16 paper that you saw on the previous pie.

17 Other items on this list include remainder  
18 composite paper. This is paper that's combined with  
19 plastic, metals that you find in some sort of, some  
20 types of packaging. Also includes food contaminated  
21 soiled paper, paper plates, paper cups, tissues, and  
22 toweling.

23 Remainder composite organics, one of my  
24 favorite categories because it include diapers, animal  
25 by-products which I won't go into detail about and,

1 among other items.

2           So you can see the rest of that list, the items  
3 that round out the complement, again those that are most  
4 predominant by weight in California's waste stream.

5           So that's the top ten. The next chart lists  
6 the full complement of 67 categories by class, paper,  
7 glass, metals, and so forth.

8           I don't expect you to digest all these numbers,  
9 I just wanted to show it to you because this level of  
10 detail is provided in your executive summary for the  
11 overall waste stream, and then in the final report  
12 you'll find this level of detail for the residential  
13 stream, the commercial stream, and the self-haul stream.

14           As we noted, the number of these materials are  
15 recoverable, compostable, or they're C&D materials that  
16 could be diverted from the current waste stream. And  
17 what I'm going to do is take a little closer look at  
18 what those materials are.

19           So the materials that are recyclable.  
20 Obviously number one up there, cardboard recyclable  
21 papers would include, again, newsprint, writing paper,  
22 mixed waste paper grades, office pack.

23           Recyclable glass, largely beverage containers,  
24 recyclable metals, including both ferrous and  
25 non-ferrous.

1           And we also have HDPE PET containers, as well  
2 as some film such as the grocery and beverage bags. And  
3 so the total recyclable quantity we see being thrown  
4 away again in the overall waste stream is about 20  
5 percent.

6           In terms of compostability, about 25 percent,  
7 wood, food, leaves, grass, other types of yard waste, as  
8 well as a portion of that non-recyclable paper, the food  
9 soiled paper plates, cups, tissue, toweling. So about  
10 25 percent compostable.

11           In addition, we see 16 percent of C&D materials  
12 that could be potentially diverted from the current  
13 waste stream.

14           With that, I would like to go from the overall  
15 waste stream and take a look at the individual sectors,  
16 commercial, residential, and self-haul that we talked  
17 about before. And if you look at the commercial sector  
18 you'll see again the top four materials there, organic  
19 materials, again construction and demolition, paper and  
20 plastics represent over 80 percent of that waste stream.  
21 From the residential waste stream, again organics,  
22 construction of demolition materials, paper, 75 percent  
23 of the waste stream, plastics 85 percent of the waste  
24 stream.

25           The self-hauled waste stream here looks much

1 different, smaller quantities of paper and plastic, few  
2 organics, but the big number here, the big item here is  
3 construction and demolition debris over half of that  
4 waste stream.

5           So in terms of recoverability for these  
6 sectors, if we look at the commercial sector first  
7 you'll see that over 60 percent of that is recoverable,  
8 about 25 percent recyclable, 25 percent compostable,  
9 smaller amount of recoverable C&D materials.

10           Likewise the residential sector, 60 percent  
11 recoverable, fewer recyclables, more organic, more  
12 compost, more organics.

13           And if we take a look at the self-hauled waste  
14 stream, fewer of the recyclables and the compostables,  
15 but a large quantity of C&D material that is more and  
16 more recoverable. We've heard this morning about C&D  
17 MRF's and ordinances and so forth.

18           So with that quick, broad overview of the  
19 overall disposed waste, material amounts and quantities  
20 of materials from each sector and the recoverability of  
21 each, I'm now going to turn the podium over to Nancy  
22 Carr, and Nancy Carr who will speak to some of the  
23 differences between this study, the 2003 study, and the  
24 previous 1999 study.

25           BOARD CHAIR MARIN: Thank you very much. Let's



1 see.

2 Ms. Moulton-Patterson.

3 BOARD MEMBER MOULTON-PATTERSON: Thank you.

4 Just since you touched on it, I don't know if Mr.

5 Schiavo would like to answer this or whoever, but I see

6 here that the total recoverable C&D is about 16 percent.

7 With the new C&D requirements and everything, do you see

8 that rising?

9 MR. SCHIAVO: There are a couple of things that  
10 would impact it. One is there are a lot more efforts  
11 with C&D ordinances and facilities going in, and also  
12 it's a product of building construction trends. And  
13 from what I've seen in predictions is that the trends  
14 are going to, that C&D is going to, the construction is  
15 going to drop in the near future, so that's going to  
16 also have an impact. So it should decrease, I would  
17 anticipate.

18 BOARD MEMBER MOULTON-PATTERSON: Even with  
19 Senator Kuhl's bill and everything you still think with  
20 the decrease in development and, or the construction?

21 MR. SCHIAVO: Yeah, I would think so.

22 BOARD MEMBER MOULTON-PATTERSON: Okay. Thank  
23 you.

24 BOARD CHAIR MARIN: Thank you. Thank you.

25 Nancy.

1 MS. CARR: Okay. In the interest of time I'm  
2 going to skip through a first of these first slides, I  
3 covered them in the committee meeting and Charlie  
4 already went over the information here.

5 Okay. As Charlie mentioned, our first  
6 statewide study that the Board did was done in 1999. So  
7 it's been four years now. And so since this is our  
8 second statewide study, can we tell if the waste stream  
9 has changed over the past four years? Well when  
10 comparing data from the two studies I would like us to  
11 keep one word in mind, and that word is caution.

12 Several factors have influenced the results of  
13 each study so that direct comparisons between the  
14 numbers in the two studies need to be made carefully.

15 One of the first things to keep in mind is that  
16 the budgets for the two studies were quite different.  
17 In 2003 our budget was less than half of what we had in  
18 1999, so with a smaller budget you can't get as detailed  
19 data as you might like to get, so that meant that the  
20 objectives and emphasis and methods that were used  
21 between the two studies were different.

22 In 1999 the emphasis was on the commercial  
23 sector, and samples of waste were taken directly from  
24 dumpsters at business sites. What this meant was that  
25 we could get a very detailed composition for the

1 commercial sector. We could develop waste profiles for  
2 26 different types of businesses individually. When you  
3 sample from dumpsters you can trace that data directly  
4 to the business that owns the dumpster so you can get  
5 very detailed data on the commercial sector.

6 And what we did with that data was put it in a  
7 database on our website to be a tool for local  
8 governments to look at, so they could assess their own  
9 commercial waste stream to help them better understand  
10 it and better target their diversion programs.

11 In 2003, because of the budget constraints, we  
12 weren't able to do that type of sampling, it's  
13 logistically a lot more difficult and expensive to do so  
14 we weren't able to do that.

15 For the commercial sector we sampled from  
16 commercial trucks disposing at the facility, so those  
17 trucks obviously had picked up from a lot of different  
18 businesses, so we could get an overall composition for  
19 the commercial sector rather than for individual  
20 business types.

21 One of the results of that difference in method  
22 in sampling at landfills is some of the commercial waste  
23 is delivered in drop boxes from commercial sources, and  
24 those drop boxes tend to contain more construction and  
25 demolition waste. So we were able to capture more of

1 those types of samples in 2003 than in 1999. So  
2 different methods definitely affects the results of the  
3 study.

4 Another thing to keep in mind is that there is  
5 inherent variability when you use random sampling. In  
6 both studies the facilities that we used to collect data  
7 at were randomly chosen. So it was a different set of  
8 facilities each year. The types of vehicles and sources  
9 of waste that go to each facility, each individual  
10 facility in the state varies a lot, and also the nature  
11 of the waste coming in the gate of those facilities can  
12 also vary, and also the waste stream can change over  
13 time.

14 So this is a comparison of the amounts coming  
15 to disposal facilities from each of the three sectors  
16 between the two years.

17 The commercial sector stayed about the same, a  
18 little bit under 50 percent between 1999 and 2000. The  
19 residential sector was about 38 percent in 1999, and  
20 about 32 percent in 2000. And the self-hauled sector  
21 was about 13 percent in 1999, and about 21 percent in  
22 2003.

23 So comparing the two pie charts, it seems to  
24 show a pretty substantial increase in self-hauled waste  
25 and a corresponding decrease in the residential waste.

1 But again, we need to be a little bit cautious when we  
2 look at this comparison.

3 As I mentioned, we randomly selected facilities  
4 to sample at in the two years so it was a different set  
5 each year, and there's a wide variation between what's  
6 coming in the door.

7 For example, in the 2003 study the amount of  
8 residential waste that we found at one facility that we  
9 used was ten percent, and at another facility that we  
10 used it was 49 percent.

11 And the amount of self-hauled waste ranged from  
12 four percent at one facility that we used to 66 percent  
13 in another facility. So the individual facilities that  
14 happened to be chosen for each study can have a big  
15 influence on how these pies look.

16 Other local studies in California and in other  
17 states showed a general trend. Commercial waste was  
18 again about 50 percent, residential waste was about 34  
19 percent, and the self-hauled sector was about 20  
20 percent.

21 So when we compare the data from 1999 to 2003  
22 with these other studies, the 2003 pie is more  
23 consistent with what has been found by others in doing  
24 their studies. So it's possible that the self-hauled  
25 waste sector was undercounted in 1999, so the increase

1 may not be as large as it looks when you just look at  
2 the two pie charts.

3           So there are also variables that include the  
4 composition data, the type and amounts of materials in  
5 the waste stream.

6           As I mentioned, in 1999 we focused on the  
7 generator sampling, and in 2003 we captured more drop  
8 boxes that contained more C&D waste in the commercial  
9 sector. So that influences the commercial sector  
10 composition. And since the commercial sector is almost  
11 50 percent of the waste stream, that is going to  
12 influence the overall composition.

13           Also, since self-hauled waste is a bigger piece  
14 of the pie, in 2003 it's weighted more heavily. And  
15 self-haul tends to contain a lot of C&D, so that  
16 influences the overall composition also.

17           This chart compares the main material  
18 categories between 1999 and 2000. So if we look at the  
19 main material categories between the two years, they're  
20 still the same, paper organics and C&D as Charlie was  
21 showing you on his pie charts too.

22           So the proportions have changed so much between  
23 the two years and that, you know, can be influenced by  
24 how the studies were done, but the main types are the  
25 same.

1           So if we compare the two years directly, paper  
2   went from about 30 percent in 1999 to about 21 percent  
3   in 2003. Metal increased from about six percent to nine  
4   percent. Organics went from 35 percent to about 30  
5   percent. C&D increased from about 12 percent to about  
6   22 percent. And glass and plastic stayed the same.

7           So as I mentioned before, this composition data  
8   can be influenced by the method, you know, for example,  
9   by capturing more drop boxes in the commercial sector.  
10   That would tend to increase the C&D waste found in the  
11   2003 data.

12          Also, the sector percents have an influence, as  
13   I mentioned. For example, self-hauled waste had a  
14   greater weight in 2003. That waste stream only has  
15   about seven percent paper and about 55 percent C&D, so  
16   that could be a factor in the changes we see between the  
17   two years in paper and the C&D percents.

18          Even with the difference between the two  
19   studies, a lot of the characteristics of the waste  
20   stream have stayed fairly consistent.

21          As you've seen, the three main categories are  
22   the same. But also if you look at the individual types  
23   of waste that we've found, eight of the top ten between  
24   the two years are the same, and they're color coded in  
25   this chart so you can kind of look at the positions that

1 they have in the two years.

2 Food is still the number one material type  
3 between the two years. And for the others, even though  
4 their positions have changed, there's still a lot of  
5 fairly readily recoverable materials in the waste stream  
6 between 1999 and 2003. So there's still a lot of  
7 potential for diversion.

8 Well, a couple of points you might have focused  
9 on during my presentation might have been looking at the  
10 C&D materials and also the self-hauled waste stream.  
11 Well, we're already working on our next waste  
12 characterization study. As a matter of fact, we have a  
13 crew in the field today over in Sonoma County.

14 We are looking at four targeted areas of the  
15 waste stream rather than doing an overall general  
16 composition like we did in 2003. Now we're focusing on  
17 targeted parts of the waste stream.

18 One of the things we're doing is a detailed  
19 study on construction and demolition as its own  
20 particular waste stream rather than as part of the  
21 overall waste stream.

22 We're doing the same thing for non-C&D  
23 self-hauled and drop box waste, that will be a detailed  
24 study rather than as part of an overall study.

25 Since the commercial sector is still almost 50



1 percent of the waste stream, we are looking at  
2 generators, generator groups, as we did in 1999.  
3 Instead of doing 26 business groups and covering the  
4 whole commercial sector, we're focusing on the ten major  
5 generators, and we also are collecting diversion data  
6 from these generators as well as disposal data.

7 And then the last of the four parts are looking  
8 at residuals from material recovery facilities.

9 We will be doing field work this winter and  
10 also next summer, and we anticipate the final report to  
11 be ready early in 2006.

12 Are there any questions?

13 BOARD CHAIR MARIN: Are there any questions?  
14 Any question? No. It was very well explained, I guess.  
15 Any further comments? No. Okay.

16 BOARD MEMBER MULE: Excuse me, Chairwoman  
17 Marin, I do have a question.

18 BOARD CHAIR MARIN: Ms. Mule.

19 BOARD MEMBER MULE: Thank you. Just one  
20 question, how are we using this data?

21 MS. CARR: Well, we can assess what the main  
22 categories are that still have a lot of potential. As  
23 Charlie mentioned, there's a lot of recyclables in the  
24 waste stream, cardboard is number three, and that is  
25 pretty readily recoverable.

1           When we were out in the field we saw it coming  
2 in in some fairly pure loads from self-haulers, for  
3 example like from a furniture store. So that brings up  
4 the question of why are those loads ending up in those  
5 facilities and not at a diversion facility.

6           BOARD MEMBER MULE: Thank you. And then my  
7 next question, Pat, is the bigger question, is how do we  
8 use this data in working with the local jurisdictions to  
9 help them tailor their programs, you know, to meet their  
10 diversion goals?

11          MR. SCHIAVO: Okay. That's just what I was  
12 going to respond to. It's going to help us identify  
13 that food waste is still a big issue out there, C&D is a  
14 big issue. We have begun, you know, we had the workshop  
15 last week on food waste at large facilities. So it's  
16 going to probably accelerate our efforts in those two  
17 areas. We had the C&D workshop the prior month,  
18 apparently these two materials types continue to be of  
19 issue.

20          But it also helps us identify that, geez,  
21 there's still a lot of paper in the waste stream such as  
22 you saw the photographs at our committee meeting where  
23 it showed the trailings of corrugated. So that's still  
24 a big issue so it will help our staff provide the  
25 technical assistance to the local jurisdictions.

1           It also assists local jurisdictions. A lot of  
2   them intend to do characterization studies of their own,  
3   but they can see this characterization study and what's  
4   happened in the past, in 1999, and instead of them  
5   having to spend the money to do it they can readily  
6   identify the major materials so they already know what  
7   they need to target so it will help save them some  
8   resources as well so they can actually go after the  
9   waste stream rather than measuring it.

10           BOARD MEMBER MULE: Right. And then as a  
11   followup with that though, I just know that, for  
12   example, some of these jurisdictions may have a lot of  
13   C&D material, excuse me, due to the growth in their  
14   communities, however they may not have the  
15   infrastructure, the processing facilities to accept  
16   those materials.

17           So again, I think that this is useful  
18   information, but again I just wanted to ask how we're  
19   using it to make sure that we're using it to help our  
20   jurisdictions meet their diversion goals and not try to  
21   force them to do something that they can't commit to.

22           Thank you.

23           MS. VAN KEKERIX: Can I add just one more  
24   thing? This is Lorraine Van Kekerix with the Waste  
25   Analysis Branch.

1 BOARD CHAIR MARIN: Absolutely, go right ahead.

2 MS. VAN KEKERIX: This does get widely used by  
3 jurisdictions, and our staff uses it when we're  
4 providing assistance to jurisdictions. But all of this  
5 information is going to be on our website, and this is a  
6 very heavily used portion of our website. And in  
7 addition, the staff in the Markets Development Division  
8 uses this data as a basis of determining where to focus  
9 a number of their efforts.

10 BOARD MEMBER MULE: Thank you.

11 BOARD CHAIR MARIN: Mr. Paparian, you have some  
12 comments?

13 BOARD MEMBER PAPARIAN: Yeah, thank you, Madam  
14 Chair.

15 I just wanted to, I think this gives us some  
16 information to look at this from a different angle to  
17 which is to keep in mind that our charge is to reduce,  
18 then reuse, then recycle.

19 I think there are some areas that were pointed  
20 out here that, that would be candidates for reduction.  
21 Certainly furniture and some of the other materials are  
22 candidates for reuse. And I think one of the things we  
23 need to do is factor it in to not just the local  
24 assistance programs, but our market development efforts  
25 in these other areas.

1 BOARD CHAIR MARIN: Absolutely, Mr. Paparian.

2 Thank you very much, Pat. Thank you,  
3 everybody, for this study.

4 When used properly, you know, the whole  
5 question is we go out there and have these great  
6 studies, and unless we use that information and use it  
7 properly then the studies are for naught.

8 But thank you very much, make sure that we use  
9 it.

10 I do want to, for the record, Mr. Carl  
11 Washington is here, he has been here for a long time  
12 now, I think it was 10:17 when he walked in. So I did  
13 not acknowledge that.

14 Thank you, Mr. Washington, for being here. I  
15 do have a small presentation to make to you. You see,  
16 yesterday we know that you couldn't be here, you had a  
17 personal situation that was very difficult and you  
18 couldn't be with all of us, but I knew in spirit you  
19 were with us.

20 And just so that you know, we had a wonderful  
21 holiday party for our staff, and the entire Board missed  
22 your performance because we all did. And so I do want  
23 to give you something that every other Board member  
24 wore, and you are to wear it too.

25 BOARD MEMBER PAPARIAN: Solo. Solo.

1 BOARD MEMBER MOULTON-PATTERSON: Come on, Carl,  
2 we had to put 'em on. Where's the camera?

3 (Thereupon there was discussion off the record  
4 and applause.)

5 BOARD MEMBER WASHINGTON: What kind of mess is  
6 this?

7 BOARD MEMBER MOULTON-PATTERSON: It looks like  
8 a smoking jacket.

9 BOARD CHAIR MARIN: Now you're properly  
10 attired.

11 BOARD MEMBER PAPARIAN: We wore a little bit  
12 less than you're wearing right now.

13 BOARD MEMBER WASHINGTON: This was a Christmas  
14 party? So this is videoed and all that good stuff?  
15 John, you got this on tape?

16 UNIDENTIFIED STAFF MEMBER: It's all been  
17 recorded.

18 BOARD MEMBER WASHINGTON: I'm talking about the  
19 party, not this.

20 UNIDENTIFIED STAFF MEMBER: Yes, to be used at  
21 our discretion.

22 BOARD MEMBER WASHINGTON: Thank you, I  
23 definitely want to see that.

24 BOARD CHAIR MARIN: We want you to know you  
25 were sorely missed.

1           BOARD MEMBER WASHINGTON: I certainly did want  
2 to be here, Madam Chair. And I had an eighteen-year-old  
3 cousin that was killed in a car accident. And it's very  
4 tough at that age when I have so many young cousins, and  
5 he had about seven or eight brothers and sisters and he  
6 was in the middle, so it was a very difficult funeral,  
7 probably one of the toughest ones I had in my own  
8 personal family so far, because again he wasn't shot in  
9 a drive-by shooting or anything like that, it was a car  
10 accident. And it's really unexplainable because that's  
11 the acts of God and you can't tell people why it  
12 happened to him.

13           And so it was tough, but we were certainly  
14 blessed and fortunate to get past the point. And  
15 hopefully they can, my cousins and all those guys can  
16 move on with their lives.

17           It's really ironic because one of my other  
18 cousins was selected for the Extreme Makeover Home  
19 Edition, so they presented them, they went to the  
20 Bahamas for seven days, they went to the Bahamas and  
21 they came back the day before. So we had a two-fold  
22 where we were happy one night and then the next night we  
23 had the tragedy of my cousin being killed in a car  
24 accident.

25           But I will certainly give you guys a date, and

1 you will certainly be excited to see, when they left  
2 they had a 1911 home built that was sitting on their  
3 lot, when they came back they had two homes. And the  
4 kid that was shot in the wheelchair, his entire back  
5 house is voice activated.

6 And I had a chance to meet Christopher Reed's  
7 wife who came and set up the room for him for his  
8 exercise room. And I mean, you know, it was just  
9 phenomenal.

10 And then we presented him with a brand new van  
11 that we had a company donate to him.

12 And Extreme Home Makeovers, they also had a  
13 wedding on the show that I performed that happened at  
14 4:30 in the morning, and 30 million people will see it  
15 when it airs in January on ABC.

16 So I was pretty bummed out come the next day  
17 for a funeral for being up all night with the Extreme  
18 Home Makeover show, but it was so exciting.

19 And then the family came along, and we did what  
20 we had to do to take care of my cousin.

21 So I had a two-fold, and it was really, I would  
22 certainly give you guys a day so you can try to catch  
23 it, and if you can't be there at home, you know, to  
24 watch it, you can tape it. It's an excellent show and  
25 they did a phenomenal job.



1           Needless to say that the aunt, she pretty much  
2   fainted when Ty told her to move that bus, she moved  
3   with the bus, I mean she went down, man, I tell you.  
4   She could not believe.

5           And kudos go out to Consolidated who was there.  
6   Man, they helped them out and provided the trash bins  
7   and hauled away as part of the volunteer effort 2.1, a  
8   2.5 million job that was totally one hundred percent  
9   volunteer. The company did it volunteer, the staff  
10  worked, and they built the home in eight days. They  
11  couldn't make seven, so it's going to be a two hour  
12  series. They built two homes. It's the first time they  
13  ever done two homes, it's the first time they ever done  
14  a wedding on the show, and so it was very exciting.

15          And I was very pleased to be the one that  
16  nominated them for this particular home makeover, and it  
17  was fun to do this project.

18          So if you guys know anybody that needs a home  
19  makeover, they do go through those applications and they  
20  respond to 'em.

21          BOARD CHAIR MARIN: There are five Board  
22  members here that probably need one of those.

23          Thank you, Mr. Washington. And our condolences  
24  to your entire family.

25          BOARD MEMBER WASHINGTON: Thank you. Thank you.

1           And Madam Chair, if I can, I would like to add  
2   onto item two that was passed as well as the consent  
3   calendar.

4           BOARD CHAIR MARIN:   Okay, thank you.

5           BOARD MEMBER WASHINGTON:   Thank you.

6           BOARD CHAIR MARIN:   That will be noted.

7           BOARD MEMBER WASHINGTON:   And thank you for  
8   this ugly -- I mean this nice robe.

9           BOARD CHAIR MARIN:   It's very Christmasy  
10   colors, you know.

11          BOARD MEMBER WASHINGTON:   Thank you.

12          BOARD CHAIR MARIN:   Let's see now.   With that  
13   we will now go into the Education and Public Outreach  
14   Committee.

15          And Linda, you have a small report for us?

16          BOARD MEMBER MOULTON-PATTERSON:   Thank you,  
17   yes.   Mr. Washington couldn't be there and he asked me  
18   to chair the meeting.   It was a very short meeting, we  
19   had a great report from Mr. Myers on the PIO department  
20   and Ms. Vorhies on what education has been doing, but we  
21   wanted to bring item 18 and 19 to the full Board because  
22   of their importance.

23          BOARD CHAIR MARIN:   Okay.   Thank you, very  
24   much.

25          Joanne, you're going to make the presentation

1 on 18?

2 MS. VORHIES: Yes, please. Good morning, Madam  
3 Chair and Board members, Joanne Vorhies, Office of  
4 Education and Environment.

5 Before we begin our presentation on the school  
6 energy efficiency program, I need to thank a few people  
7 from the Board.

8 I want this Board to know that the SEE program  
9 would have never been successful without the teamwork of  
10 our legal office, Marie Carter and Steve Levine, in  
11 Admin Tom Estes, Elsie Brenneman, and all the budget  
12 staff, including Julie Arico in accounting. In  
13 contracts, Susan Villa and her staff, in addition to  
14 loaning Tiffany Donohue to me full-time. Our web staff  
15 Doug Ralston, Paige Lettington, and Chris Allen. In  
16 public affairs, Jon Myers and his staff, especially Bill  
17 Albert and Chris Peck. Howard Levenson and his staff  
18 for the loaning of us prime real estate on the tenth  
19 floor. I just want to say thank you all.

20 Now I would like to introduce the consultants  
21 that kept the SEE program alive and worked incredibly  
22 hard. Nicole Fitch, Claudie Kit, Elva Raish, and  
23 Giselle Vigneron. A special thanks to Giselle who was  
24 one of the senior consultants on this project. Giselle  
25 was with me from the beginning and did a fantastic job,

1 as did all the consultants.

2 So with all that said I would like to introduce  
3 Tiffany Donohue who helped manage this program, and  
4 another truly great Waste Board team member. Her  
5 knowledge of contracts in the state system is  
6 unbelievable. I could not have done this without  
7 Tiffany.

8 Now Tiffany will present the item.

9 MS. DONAHUE: Thank you, Joanne, Madam Chair,  
10 and Board members.

11 Today I wanted to give you a brief summary of  
12 the school energy efficiency program that has been  
13 administered by the Office of Education and the  
14 Environment here at the Integrated Waste Management  
15 Board.

16 The SEE program has had significant milestones  
17 within the last two and a half years. In July, 2002,  
18 the State and Consumer Services Agency applied for and  
19 was awarded a \$4.5 million grant from the CPUC. This  
20 grant was the first award of its kind to another state  
21 agency, and this program was developed out of the  
22 developing energy crisis of 2002.

23 In January, 2004, this Board accepted the  
24 responsibility of transferring the SEE program from SCSA  
25 over to the Integrated Waste Management Board.

1           The Board and CSAP worked to facilitate the  
2 transfer of the program. It took approximately five  
3 months at which time, in May, 2004, the program was  
4 officially assigned to the CIWMB.

5           From May to December the CIWMB allocated more  
6 than \$2 million towards the SEE program activities.  
7 This amount of allocation far exceeded our goals and our  
8 expectations and was truly a great accomplishment.

9           On December 1st the SEE program officially  
10 concluded its activities, and beginning next month the  
11 SEE program will be evaluated by a third party  
12 evaluator. Their activities will be evaluated, as well  
13 as how well the Board has administered this program.

14           The SEE program was developed to address energy  
15 efficiency by utilizing a three-pronged approach. The  
16 first concept was student education through the use of  
17 classroom activities and project based learning, which  
18 could have also been linked to home and community energy  
19 efficiency efforts, and integrated with school site  
20 energy related facility improvements.

21           Second, teacher support by recommending  
22 standard based energy education resources, offering  
23 professional development training on energy conservation  
24 and efficiency, and providing access to numerous  
25 partnering organizations.

1           And third, facility improvements by offering  
2 school facilities staff training and energy efficient  
3 technologies and building practices. Tracking and  
4 benchmarking district buildings energy usage, and  
5 providing comprehensive building energy audits.

6           The accomplishments of the SEE program are  
7 quite impressive. Through various activities involving  
8 our partners, there have been more than 25,000 students  
9 participating in program activities; participation by 55  
10 school districts in the Central Valley; over 1,000  
11 school building energy audits have been performed; and  
12 various professional training, demonstration projects,  
13 and extensive partnerships have been developed.

14          The SEE program's success can be attributed to  
15 the involvement, dedication, and contribution of various  
16 governmental agencies and private businesses. A total  
17 of 16 entities had direct involvement with the program  
18 activities. In addition, although not funded directly  
19 by the SEE program, staff established working  
20 relationships with over 30 industry partners who were  
21 willing to donate energy efficiency equipment to school  
22 facilities.

23          These next three slides provide a sample of  
24 events offered throughout the life of the program. The  
25 first slide over on the left-hand side are photos of

1 some Recycle Rex events that we partnered with the  
2 Department of Conservation on.

3 Recycle Rex, a program for K through three,  
4 visited 984 classes, and entertained over 19,000  
5 students with the message that recycling saves energy.

6 Next we have a couple of old photos from the  
7 Burrel Elementary School. The first, students conducted  
8 an energy festival for their parents, students, and  
9 school staff.

10 Students learned about energy efficiency and  
11 helped prepare the festival games.

12 Mary Funk, a fifth grade science teacher at  
13 Burrel Elementary, integrated SEE educational materials  
14 into the K through eight school curriculum.

15 School test scores rose 76 points, and the  
16 superintendent directly credits the SEE program for that  
17 increase.

18 Mary's innovative classroom project using data  
19 loggers to monitor school energy use won her first place  
20 in the elementary division of the Earth Apple contest.

21 As part of the SEE program, the California Arts  
22 Council gave grants to schools to work with artists to  
23 create schoolwide energy conservation messages.

24 One of the photos that we show under that  
25 particular heading is a mural that showcases art created

1 by students with disabilities at a public school.

2 SEE staff, in coordination with program  
3 partners, presented in Spanish four energy festivals in  
4 underserved Central Valley migrant communities. The  
5 events were centered around the planting of thirty to  
6 fifty trees at each of the centers as a tool to educate  
7 residents about the benefits of shade trees, and to  
8 offer the ability for their buildings to stay cooler  
9 during the hot Central Valley summers.

10 In addition to the tree plantings, program  
11 partners offered many hands-on activities to further  
12 educate children of migrant families about energy  
13 efficiency and conservation.

14 A favorite among the children were the mobile  
15 energy labs which were funded by the program. You can  
16 see in the Firebaugh photos, the local corps members  
17 working with the children in the labs to assist in their  
18 understanding on the use and conservation concepts  
19 regarding energy.

20 And this next slide details a couple of photos  
21 from one of our demonstration projects. The  
22 demonstration projects are an effective way for us to  
23 highlight energy efficient technologies and their  
24 applications to school districts, administrative,  
25 facilities, and educational staff. Through these



1 examples the staff can provide -- can integrate teaching  
2 at the school sites for their students.

3           These particular pictures are from the Foothill  
4 Horizons Elementary. And what we did here is we  
5 utilized solar tubes in the retrofit, which resulted in  
6 an annual energy usage savings of 76 percent.

7           The sustainability of the SEE program can be  
8 guaranteed by the many materials, activities, and  
9 improvements that will continue to promote energy  
10 efficiency and conservation for many years after the  
11 program ends.

12           A few of the main categories that ensure the  
13 sustainability would be the environmental education  
14 materials which include instructional videos and CD Roms  
15 aligned to state standards and distributed to all 55  
16 school districts.

17           The program has also placed permanently 23 of  
18 the mobile energy labs at sites throughout the valley.

19           We are offering benchmarking databases on the  
20 CIWMB's website that will allow teachers and students to  
21 compare their school's energy usage with comparable  
22 sites.

23           And lastly, the facility improvements, art  
24 displays, and shade trees which will all contribute  
25 lasting impact to the communities.

1 I'd like to close with a Greek proverb that I  
2 believe illustrates the accomplishments of the SEE  
3 program, "A society grows great when men plant trees  
4 whose shade they know they shall never sit in."

5 The impact that the SEE program made in the  
6 residents of the Central Valley in relation to their  
7 understanding of energy efficiency and how to work  
8 towards conservation will be of impact for years to  
9 come.

10 This concludes my presentation. We have a few  
11 program materials that we would like to provide to each  
12 of the Board member's offices as well as the executive  
13 office.

14 And with that, we have staff available to  
15 answer any questions. Thank you.

16 BOARD CHAIR MARIN: Thank you so very much.

17 Ms. Moulton-Patterson.

18 BOARD MEMBER MOULTON-PATTERSON: Thank you.

19 Last January I remember turning to Ms. Vorhies  
20 and saying, "What about the children?" That's just a  
21 little inside joke from yesterday. No, quite seriously  
22 I said, "You know, if we could only get a hundred  
23 thousand dollars back out to the schools, I would think  
24 this would be a terrific success." Because as all of  
25 you who are here know, if we hadn't taken over this

1 program it would not have been. And instead of a  
2 hundred thousand dollars out to the schools, well,  
3 giving \$2 million out the door to Central Valley schools  
4 certainly surpassed my goal. And all of these millions  
5 of dollars would have reverted right back to the  
6 California Public Utilities Commission instead of going  
7 to children and educators.

8           So I just want to say thank you. And I  
9 appreciate so much all the people that you thanked, Ms.  
10 Vorhies, in your opening remark, because this totally  
11 was a team work effort, and it was great to see all the  
12 divisions pulling together. I know, you know, at first  
13 there might have been a little, "Oh, should we?" But  
14 everybody pulled together and really did a terrific job  
15 to make this a great program.

16           Now, is this program going to be continued Ms.  
17 Vorhies?

18           MS. VORHIES: Actually, yeah, the Public  
19 Utilities Commission has given money to D&R  
20 International to continue the SEE program, and so in  
21 that way it will be continued through the Public  
22 Utilities Fund.

23           BOARD MEMBER MOULTON-PATTERSON: Great. What  
24 about any unspent SEE money?

25           Ms. Carter, do we get, will this go toward the

1 continuation or --

2 CHIEF LEGAL COUNSEL CARTER: With Board  
3 direction we can certainly join in a motion to the  
4 Public Utilities Commission and request that monies be  
5 used in furtherance of the continuation of this  
6 program.

7 BOARD CHAIR MARIN: Excellent.  
8 Mr. Washington.

9 BOARD MEMBER WASHINGTON: Thank you, Madam  
10 Chair. I would like to attach my comments with Ms.  
11 Moulton-Patterson. It's absolutely wonderful to see  
12 that you guys have moved so quickly with this program.  
13 You got it out in such a way, \$2 million in six months,  
14 that's pretty good. And again, kudos to the staff, you  
15 guys have done an excellent job at making this happen.

16 I just, I heard you mention the underserved in  
17 the Central Valley. What prompted you to target the  
18 migrant centers in Central Valley?

19 MS. KIT: My name is Claudie Kit and I'm one of  
20 the consultants on the program.

21 Part of the original grant that actually  
22 allowed us to get the funding targeted specifically the  
23 underserved and hard to reach communities. So with the  
24 collaboration of the California Department of Forestry  
25 and Fire Protection, we felt that reaching out to

1 migrant centers that are a very underserved community  
2 would be one of the ways to reach our goals.

3 BOARD MEMBER WASHINGTON: Yeah, that's great.  
4 And again to the consultants as well, thank you so very  
5 much, you guys have really made an excellent program.  
6 Thank you very much.

7 BOARD CHAIR MARIN: Okay. Thank you. I really  
8 appreciate it.

9 Just so that the public knows what we have been  
10 given is the Mobile Energy Laboratory Educational  
11 materials, the Kids Flex Your Power Energy Challenge,  
12 the power video, and the "You've Got the Power" video on  
13 CD rom. And we're all going to watch it and have a  
14 great time. Where's the popcorn?

15 CHIEF LEGAL COUNSEL CARTER: Excuse me, Madam  
16 Chair.

17 BOARD CHAIR MARIN: Yes.

18 CHIEF LEGAL COUNSEL CARTER: Marie Carter.

19 BOARD CHAIR MARIN: Yes.

20 CHIEF LEGAL COUNSEL CARTER: I just wanted to  
21 see if the Board would give that direction so that we  
22 can join in a motion for the continuation of this  
23 program with the remaining funds.

24 BOARD CHAIR MARIN: Okay. Thank you.

25 Ms. Moulton-Patterson.

1 BOARD MEMBER MOULTON-PATTERSON: Do we need a  
2 motion or can the Chair just give direction?

3 CHIEF LEGAL COUNSEL CARTER: No, just the Chair  
4 can give direction.

5 BOARD CHAIR MARIN: Well you are given  
6 direction then.

7 CHIEF LEGAL COUNSEL CARTER: Thank you.

8 BOARD MEMBER MOULTON-PATTERSON: Thank you very  
9 much.

10 MS. VORHIES: Okay. We will. Thank you.

11 BOARD CHAIR MARIN: The next item, Joanne, you  
12 have another one that you're going to present? After  
13 this we're going to take a very, very short break. I  
14 know we all need one. So as quickly as possible.

15 MS. VORHIES: Okay. All right, very good.  
16 Item 19 is an update on AB 1548, and I would like to  
17 introduce the co-manager for the Waste Board, Board  
18 Bonnie Bruce.

19 MS. BRUCE: It's really a pleasure to have the  
20 opportunity to sit on this side of the dais and see your  
21 smiling faces instead of the backs of you.

22 On behalf of the other co-chair, Andrea Lewis  
23 from Cal EPA, and our consultant Dr. Jerry Leiberman,  
24 I'm going to take just a few minutes to give you an  
25 update on the status of the education and the

1 environment initiative.

2 I know you all have been given packets that  
3 you've been able to review, and I just want to take a  
4 special moment to say thank you, first of all, to Linda,  
5 my boss, who really had the vision and the foresight  
6 when she first came on this Board to say, you know,  
7 "It's not just about what we're doing today but it's  
8 about the future and the future are the children. So  
9 what are we doing for the children?" This is it, Linda.

10 And to all of you that came to our partnership  
11 meetings and spoke and brought your words of wisdom and  
12 support, that has been most appreciated.

13 And of course, I always say you have to  
14 sometimes put your money where your mouth is, and so you  
15 know, you not only did the talk, you walked the talk by  
16 providing the money for the initial phases, and we do  
17 thank you for that.

18 I also want to say a special thank you to our  
19 Executive Director Mark Leary because he really has been  
20 very supportive of our project and our program, as well  
21 as staff including Jon Myers and his team for a lot of  
22 what you see, particularly the graphics right behind you  
23 there on your screens.

24 And so very quickly I would like to just walk  
25 you through where we are in terms of this initiative.

1           The law calls for us to, AB 1548 called upon  
2 the Secretary for the Environmental Protection Agency  
3 and the Integrated Waste Management Board, in  
4 cooperation with Resources Agency, State Department of  
5 Education, State Board of Education, the Secretary, to:

6           Number one, we had to develop education  
7 principles and concepts for the environment for  
8 elementary and secondary schools.

9           Number two, we needed to incorporate the  
10 education principles and concepts for the environment  
11 into criteria that will be developed for textbook  
12 adoption in those particular subject areas.

13           Number three, we needed to ensure that these  
14 principles and concepts were aligned to the academic  
15 content standards that are adopted by the State Board of  
16 Education.

17           And number four, we need to develop and  
18 disseminate a model curriculum to now teach the  
19 environmental principles and concepts.

20           The management team as you see is located,  
21 shown here as our sponsors have been Terry Tamminen out  
22 of Cal EPA, Linda Moulton-Patterson from the Waste  
23 Board. Both Andrea and I have been co-managing the  
24 project. We have government partners, associate  
25 partners, and then we have technical experts that you



1 can see, both for our standard alignment team, technical  
2 working groups, and external stakeholders.

3 We are well over the hundreds of people that  
4 have been involved in this project to date. And again  
5 our technical consultants are Dr. Leiberman and Jenny  
6 Rigby.

7 We were very much involved in the beginning  
8 parts of this project in putting these teams in place,  
9 but from July through November, as we drafted the  
10 environmental principles with much help, I think one of  
11 the questions that is often asked is, do you just send  
12 things out to consultants and have them write that and  
13 then you just react to that?

14 And in this situation we did it just the  
15 opposite way. We brought the technical experts  
16 throughout the state to the table to help be a part of  
17 the writing project. And any of you that have done that  
18 type of work, you know that sometimes you just close the  
19 door and you wordsmith it to death until everybody  
20 agrees, and much of that was done in June, July, and  
21 August.

22 We then went on-line for a discussion forum  
23 from August to November, so that basically anybody that  
24 wanted to comment on this could do that.

25 We went to the California Science Teachers

1 Association, and there again we had an opportunity for  
2 the people that were attending that conference to  
3 participate on-line.

4 And then we electronically distributed this to  
5 over 1,000 educators so that they too could provide  
6 their comments.

7 The, after that -- and we have provided you in  
8 your packet all of the principles and concepts, and I  
9 know you've had an opportunity to review those. But  
10 after that we were then asked to then take, and we  
11 needed to align this to the content standards where they  
12 would be appropriate, and they needed to meet the  
13 following criteria:

14 Directly teach to the standard.

15 Provide the context to help students understand  
16 the standard, or help students perceive the significance  
17 of the standard in their daily lives.

18 And I think the key here was that there's a lot  
19 of good educational material out there, environmental  
20 education, there are a lot of people that access  
21 portions of school districts or a school classroom, but  
22 our charge has been to teach and come up with principles  
23 and concepts that will teach to mastery, and also to  
24 touch the lives of over six million children in close to  
25 over a thousand school districts. So it's not just

1 picking a piece of the state, it is the entire state.

2 Our review process, as you can see, and we'll  
3 just go through this very, very quickly, has been very  
4 much, again, one of putting together teams.

5 Again giving five regional field reviews with  
6 K-twelve educators. You can see the areas that we did  
7 go to.

8 Again we did another on-line discussion forum.

9 We provided regional orientation sessions.

10 And again distributed to over a thousand  
11 educators.

12 This is pretty much where we've been. As you  
13 can take a look at the implementation plan from where we  
14 actually picked up the project in March and have moved  
15 it through December. Our final piece in this phase was  
16 the submission for review and approval from the  
17 Secretary of Cal EPA and from the California Integrated  
18 Waste Management Board.

19 Although the bill does not call for a formal  
20 vote, it does call for your approval and that's why we  
21 are here today.

22 Where we are headed. We are headed next into  
23 the model curriculum, and here it is designed to help  
24 students achieve mastery of the academic standards at  
25 each grade level, clearly define the learning outcomes

1 that are aligned to this, and then provide a learning  
2 continuum for K-twelve to teach the environmental  
3 principles and concepts. And this is what will take us  
4 through April of 2005.

5 I'm not going to go through all of this, but I  
6 think you can see that we do have a work plan. It is  
7 our hope that as you reviewed this work plan as part of  
8 your agenda packet that you will give us the go-ahead so  
9 that we may begin to, as early as 7:30 tomorrow morning,  
10 begin to start the implementation of this plan.

11 The other big piece that's not listed here  
12 obviously is that all of this takes money, and we are  
13 working through all kinds of ways, both administratively  
14 and legislatively, to see how we will come up with the  
15 money to continue on.

16 Again, I want to thank you for this  
17 opportunity. I think the implementation of this bill  
18 impacts the future generations of California. And I've  
19 gotten to know most of you pretty personally, and I know  
20 that one of the legacies that I know you would want to  
21 leave as you leave this Board is to think of what you've  
22 done for the future of, not only California, but I have  
23 to say that the entire nation are looking at us for what  
24 we're going to do, we're one of the first to be out  
25 there as far as we are.

1           And so again, I offer your thanks and I  
2 personally want to thank Linda for affording me the time  
3 to spend on this. This has been a real treat for me.

4           Thank you so much. And we're here for  
5 questions.

6           BOARD CHAIR MARIN: Thank you, Bonnie. And I'm  
7 sure, well, you know there's a reason why you were  
8 chosen is because you have a great background on  
9 education as a former teacher yourself, they couldn't  
10 find a better person to head that.

11          MS. BRUCE: Thank you.

12          BOARD CHAIR MARIN: With that, Ms.  
13 Moulton-Patterson.

14          BOARD MEMBER MOULTON-PATTERSON: Just very  
15 briefly. I just want to thank Andrea Lewis and Joanne  
16 Vorhies and Bonnie Bruce and Dr. Leiberman for just a  
17 fantastic job. This is a massive, massive, massive  
18 effort, and it will affect California children and  
19 possibly nationally, as Bonnie said, for years and years  
20 to come.

21          So thank you. It would have been easy to give  
22 up and you didn't, and thank you so much for working  
23 together on this.

24          BOARD CHAIR MARIN: Thank you, and thank you  
25 all. I know Mr. Paparian wants to make a very quick

1 comment.

2 BOARD MEMBER PAPARIAN: Yeah, I just want to  
3 add my kudos. I think this is one of the most important  
4 and long lasting programs that the Board has been  
5 involved in. And I think everybody involved deserves a  
6 lot of thanks from us for their hard work they've done  
7 in putting this together.

8 BOARD CHAIR MARIN: Thank you.

9 Ms. Peace.

10 BOARD MEMBER PEACE: I too would just like to  
11 thank Bonnie and Andrea and Jerry Leiberman and Joanne  
12 and her team, this has been an incredible effort. When  
13 this first started I thought, "How are we ever going to  
14 do this?" But they've done it and it's just been  
15 incredible.

16 I know the State Board of Education, the  
17 California Department of Education, the Office of the  
18 Secretary of Education, they were all named in the bill,  
19 but it wasn't easy to get them on board, and they did  
20 the impossible. And I just want to thank you so much.  
21 You guys have just done such an incredible job.

22 Bonnie mentioned money, money to continue. Do  
23 you have any idea, do you have a budget? I mean how  
24 much money do you think it's going to cost to continue  
25 this effort?

1 MS. BRUCE: Well I don't want everybody to fall  
2 off their seats, but we've kind of done this in phases,  
3 and to date you all, you know, just through actual  
4 dollars have put more than \$3 million towards this  
5 project, and that doesn't count staff time and all of  
6 the in-kind types of things that are there.

7 As we look at the total project which will  
8 probably take you well into 2009, I mean we really  
9 estimated that it could cost anywhere up to \$30  
10 million. We're looking at in phases. And so for the  
11 next phase we're probably looking for around \$7 million,  
12 and again we're looking at all avenues that we have,  
13 both administratively, legislatively.

14 We do know that we did start going out to  
15 private, different types of places where you could go  
16 for foundations. And one of things that they said and  
17 made it very clear to us was that you can come to us,  
18 but first you have to show what the state is willing to  
19 do. And so, you know, how much effort is going to come  
20 from the state before we come forward. So we had to  
21 come back into our home base. And so that is where we  
22 are right now in looking for that money.

23 BOARD CHAIR MARIN: Thank you, Bonnie.

24 Mr. Washington.

25 BOARD MEMBER WASHINGTON: Thank you, Madam

1 Chair.

2           And certainly as chair of the Education and  
3 Public Outreach, you know, \$7 million is really nothing  
4 compared to what you would do for young people, as you  
5 stated before, for years and years to come. That's not  
6 a lot of investment, and certainly it's a great  
7 investment because we are adding to the curriculum and  
8 certainly to the textbook opportunity for young people  
9 to learn about the environment. I think it's absolutely  
10 wonderful.

11           I was there when you had some of those  
12 meetings, and I had such a great time seeing some of the  
13 greatest minds that you had brought together to come up  
14 with this concept.

15           And again, to both Joanne and Andrea and Bonnie  
16 and all you guys who have just worked so hard on this, I  
17 too want to congratulate you. And whatever we can do to  
18 keep this moving forward we're there to support you.

19           MS. BRUCE: We appreciate it. We've taken it  
20 down to where we figured it's just pennies a day to do  
21 it.

22           BOARD CHAIR MARIN: For every child, right?

23           MS. BRUCE: For every child.

24           BOARD CHAIR MARIN: It's less than pennies  
25 actually. Thank you very much. We're going to take a



1 five minute break. We will be right back. Thank you.

2 (Thereupon there was a brief recess.)

3 BOARD CHAIR MARIN: Okay. We are going to  
4 resume our meeting. I know Ms. Moulton-Patterson is  
5 going to join us just briefly, just in a couple of  
6 minutes.

7 But with that, we will have, we will go into  
8 Permitting and Enforcement.

9 Ms. Mule, you have a small report?

10 BOARD MEMBER MULE: Yes, I do. Thank you,  
11 Madam Chair.

12 We did hear nine items in our committee. Two  
13 items are on fiscal consent, items 20 and 21, Howard  
14 Levenson and his staff will briefly present those to us.

15 Two items, items 22 and 23 were heard in  
16 committee only, those were the conversion technology  
17 proposed regulations and the RD&D regulations.

18 There were two consent items. I do understand  
19 in just speaking to Howard that on item 27 and 29 there  
20 are two permit applications, we could not vote on them  
21 in committee because we were waiting for some  
22 information. My understanding from Howard is that we  
23 did receive the information so we'll be hearing them  
24 very briefly today. And then item 30 will be heard this  
25 afternoon.

1           That concludes my report. Thank you, Madam  
2 Chair.

3           BOARD CHAIR MARIN: Thank you, Ms. Mule.

4           Howard, are you going to go into item 20?

5           MR. LEVENSON: Good morning, Madam Chair and  
6 Board members, Howard Levenson with the Permitting and  
7 Enforcement Division.

8           Item 20 is consideration of the grant awards  
9 for the farm and ranch solid waste cleanup and abatement  
10 grant program for fiscal year 2004-2005. Wes Minderman  
11 was prepared to give that presentation, he's even  
12 wearing a tie, but I'm going to go ahead and just give  
13 an abbreviated presentation.

14           Basically this item is requesting that the  
15 Board approve three grants in the amount of \$169,822 for  
16 the second quarter of this fiscal year for the farm and  
17 ranch solid waste cleanup and abatement grant program.  
18 Those grants will be to Marin County, San Joaquin  
19 County, and Solano Resource Conservation District.

20           With that, staff recommends that the Board  
21 approve the proposed awards and adopt Resolution number  
22 2004-302.

23           BOARD CHAIR MARIN: Okay. I know that this was  
24 recommended for fiscal consent. Because we do have Mr.  
25 Carl Washington now with us, can we call the roll,

1 please?

2 I'm sorry, is there a motion for the item?

3 BOARD MEMBER MULE: I'd like to move approval  
4 of Resolution 2004-302 revised.

5 BOARD MEMBER PAPARIAN: Second.

6 BOARD CHAIR MARIN: And Mr. Paparian. Ms. Mule  
7 moves it, Mr. Paparian seconds it.

8 Please call the roll.

9 BOARD SECRETARY JIMENEZ: Moulton-Patterson?

10 BOARD MEMBER MOULTON-PATTERSON: Aye.

11 BOARD SECRETARY JIMENEZ: Peace?

12 BOARD MEMBER PEACE: Aye.

13 BOARD SECRETARY JIMENEZ: Mule?

14 BOARD MEMBER MULE: Aye.

15 BOARD SECRETARY JIMENEZ: Paparian?

16 BOARD MEMBER PAPARIAN: Aye.

17 BOARD SECRETARY JIMENEZ: Washington?

18 BOARD MEMBER WASHINGTON: Aye.

19 BOARD SECRETARY JIMENEZ: Marin?

20 BOARD CHAIR MARIN: Aye. Are you going to  
21 present number 21?

22 MR. LEVENSON: Yes, ma'am.

23 BOARD CHAIR MARIN: Thank you, Howard.

24 MR. LEVENSON: Item 21 is consideration of new  
25 projects for the solid waste disposal and co-disposal

1 site cleanup program. And here we're recommending  
2 approval of two new projects, one in, both in Monterey  
3 County, one is the Calabrese property, and one the Marks  
4 Ranch illegal disposal site.

5 Both of these would be Board managed cleanup  
6 programs in which we would seek your concurrence in  
7 waiving cost recovery. The total amount that would be  
8 expended for these would be \$300,000.

9 With that, staff recommends that the Board  
10 approve the proposed projects and the cost recovery  
11 actions recommended by staff, and adopt Resolution  
12 2004-303.

13 BOARD CHAIR MARIN: Okay, Ms. Peace.

14 BOARD MEMBER PEACE: I just have a couple quick  
15 questions. For the Marks Ranch it does say that it's  
16 residential purposes and limited cattle grazing. I'm  
17 just wondering what makes this different and why they  
18 wouldn't apply for this under the farm and ranch cleanup  
19 and they applied for it under this cleanup? What's the  
20 difference between --

21 MR. MINDERMAN: For the record, my name is Wes  
22 Minderman with the Solid Waste Cleanup Program.

23 I think part of the problem with Marks Ranch  
24 and why they came up under the solid waste cleanup  
25 program was because the per site limit under the farm

1 and ranch cleanup program was \$50,000. Under the solid  
2 waste cleanup program we can fund the entire project of  
3 \$175,000.

4 BOARD MEMBER PEACE: Okay. Thank you.

5 BOARD CHAIR MARIN: Okay. Is there a motion?

6 BOARD MEMBER MULE: Move approval of Resolution  
7 2004-303.

8 BOARD CHAIR MARIN: And Ms. Mule moved, is  
9 there a second?

10 BOARD MEMBER PAPARIAN: Second.

11 BOARD CHAIR MARIN: Mr. Paparian. With that,  
12 without objection we will substitute the previous roll  
13 call.

14 The next item would be --

15 MR. LEVENSON: The next one we move to is  
16 number 27.

17 BOARD CHAIR MARIN: 27, okay.

18 MR. LEVENSON: The others are either on consent  
19 or have been pulled.

20 BOARD CHAIR MARIN: Right.

21 MR. LEVENSON: Item 27 is consideration of a  
22 revised solid waste facilities permit disposal facility  
23 for the Ridgecrest Sanitary Landfill in Kern County.

24 And Chris Deidrick will make a short  
25 presentation on that item.

1 BOARD CHAIR MARIN: Welcome, Chris.

2 MR. DEIDRICK: Good morning.

3 MR. LEVENSON: Chris needs to pull his tie out  
4 and show it.

5 MR. DEIDRICK: Sorry, I have to pull my shirt  
6 out, it was attached.

7 MR. LEVENSON: Very classy tie.

8 BOARD CHAIR MARIN: Very good. Very good.

9 MR. DEIDRICK: Yes, my wife bought it for me  
10 for the holiday.

11 Today the operator is requesting the following  
12 five changes to the current solid waste facilities  
13 permit.

14 A change in the hours of operation.

15 A change in the estimated closure date.

16 A change in the property owner, and that's  
17 going from the Bureau of Land Management to the Kern  
18 County Waste Management Department.

19 A change in the maximum elevation, and the  
20 minimum elevation of the landfill.

21 During the committee presentation for this  
22 Board item staff indicated that further evaluation is  
23 needed for the financial assurance demonstration.

24 However, it was determined shortly after that  
25 committee meeting that Board staff had made the

1 necessary findings, and that the financial assurance  
2 demonstration met all regulatory requirements.

3 And I'd just like to point out that the  
4 operator and the LEA did provide everything that was  
5 necessary for this permit application.

6 In addition, as noted at the committee meeting,  
7 the facility had ongoing permit violations for  
8 significant change in non-compliance with the terms and  
9 conditions of the permit. Both of these violations will  
10 be corrected if the Board concurs in the issuance of  
11 this permit.

12 In conclusion, Board staff have determined that  
13 all of the requirements for the proposed permit have  
14 been fulfilled.

15 Board staff recommend that the Board adopt  
16 Resolution number 2004-308 concurring in the issuance of  
17 solid waste facilities permit number 150-AA-0059.

18 I'm here today to respond to any questions on  
19 this item. Representing the local enforcement agency is  
20 Bill O'Rullian and Diane Wilson of the Kern County  
21 Environmental Health Services Department. In addition,  
22 representing the operator is Daphne Wilson and Brian  
23 Klate, and they represent the Kern County Waste  
24 Management Department.

25 BOARD CHAIR MARIN: Okay. And I see that we

1 have a few questions. Did - okay. Did they want to  
2 come in and make a presentation first?

3 MR. DEIDRICK: Let me check my thing, it's  
4 actually Daphne Washington, I made a mistake.

5 BOARD CHAIR MARIN: Okay. All right. So why  
6 don't we have one person come forward. I have three  
7 members that have questions.

8 MR. DEIDRICK: This is Bill O'Rullian and Diane  
9 Wilson.

10 BOARD CHAIR MARIN: Perfect. Would you like to  
11 say something or would you just like to answer  
12 questions?

13 MS. WILSON: I think we'll just answer  
14 questions.

15 BOARD CHAIR MARIN: Okay. Great. Thank you.  
16 Thank you for coming.

17 First one is Mr. Paparian.

18 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.  
19 I had some concerns and I brought this up in committee  
20 too.

21 When I look at this I see 72 state minimum  
22 standards violations over a period of six years, many of  
23 which relate to the operation of the facility, how well  
24 operated it is, things like grading and daily cover.  
25 And those have continued over time, they've been fairly



1 consistent over time, and there's been, there's two  
2 questions on my mind, two concerns on my mind.

3           One is that if this were a private facility, if  
4 it were one of Mr. Edgar's clients with 72 state minimum  
5 standards violations, I think there probably would have  
6 been some more significant enforcement action over time  
7 to try to correct these items.

8           I'm not asking you to come forward Mr. Edgar,  
9 but what strikes me, it's a county-owned facility and a  
10 county LEA, 72 violations. I commend the LEA for noting  
11 those 72 violations, but it seems like there's a real  
12 consistency over time that year in year out there's  
13 going to be violations. That leads me to concerns about  
14 voting for the permit.

15           If I'm voting for a permit thinking there's  
16 going to be state minimum standards violations, I'm not  
17 sure I can even do that.

18           So I'm wondering if the LEA wants to respond to  
19 what's really happening here, what can be done to beef  
20 up the enforcement at this facility.

21           MS. WILSON: Okay. I can address that.  
22 There's a couple of issues here. One is that a lot of  
23 these violations were intermittent, they would be  
24 corrected and then we would have a similar but maybe a  
25 different violation, especially the last year where we

1 had two separate incidents, one of them regarding an  
2 accumulation of green waste because of a lack of market.  
3 It was processed green waste, we determined there was  
4 not a fire hazard or an issue with that, it was just  
5 removing it from a remote location in the landfill.

6 The other one then was a problem with a well  
7 which created a problem with compaction and grading.

8 We are going to be working with the LEA  
9 evaluation team in developing a stronger enforcement  
10 program. And that would be to stipulate how many areas  
11 of concern or violations we would allow to occur before  
12 further enforcement took place.

13 We've just been talking to Brenda Saldano about  
14 that myself. We have our LEA evaluation December 20th,  
15 and I'm sure this issue will be discussed then, and  
16 hopefully resolved.

17 The other issue is that our staff does not play  
18 favorites when it comes to private versus public  
19 entities. We note violations when they are needed to be  
20 noted. We try to work with education, compliance  
21 meetings. We did have several compliance meetings with  
22 this facility, we would do the same with a private  
23 entity as well as a public entity.

24 And as you may not be aware of, Kern County had  
25 several illegal dumping problems this year, those were

1 our priority to go after. We issued notice and orders  
2 on those facilities. We had five or six, several of  
3 those have gone to court. And those were the imminent  
4 public health threats that we face this year.

5 BOARD CHAIR MARIN: Thank you.

6 Ms. Moulton-Patterson.

7 BOARD MEMBER MOULTON-PATTERSON: Thank you. My  
8 question was similar to Mr. Paparian's. I wasn't at the  
9 committee meeting, but I'm stunned by all these  
10 compliance history. And, you know, I guess I'd just  
11 like somebody to expand on it more. It seems like an  
12 awful lot, and just to kind of whip through this permit  
13 disturbs me.

14 And could you go into anymore detail or do you  
15 want them to go into more detail? I'm really concerned  
16 about it, 72 is a lot.

17 MR. O'RULLIAN: My name is William O'Rullian  
18 and I am a colleague of Diana Wilson in the solid waste  
19 program. I supervise our solid waste program, there are  
20 six of us who are full-time LEA inspectors. And we all  
21 inspect, Diana is our lead person with permitting.

22 And as you are aware as a Board, you have seen  
23 many permits come forward over the last four years from  
24 Kern County successfully. And our plate has been very  
25 full with compliance issues in both enforcement and

1 bringing these permits forward to the Board.

2 This site, the Ridgecrest Sanitary Landfill is  
3 located out in the Mojave Desert. It is a difficult  
4 climate in a difficult geological location in work in,  
5 in that the material used for cover, the native soil is  
6 finely divided. It is almost like trying to cover with  
7 sand.

8 And so us writing a grading or a cover  
9 violation would not be unusual in a location like that.  
10 It's very difficult for the operator to be able to  
11 cover, as it would be in other locations that have more  
12 favorable soil conditions. The county has instituted  
13 the extended use of tarps at landfills to deal with this  
14 problem.

15 The grading or the green waste issue, as my  
16 colleague Diana Wilson indicated, was partly due to  
17 market problems with being able to recycle green waste  
18 that had been processed, but to reach a composting  
19 market would have been over 150 miles away. And because  
20 of the economic considerations of moving that material,  
21 and being able to actually access a site to bring that  
22 material to, there were delays.

23 And I, as -- I would like to note with Mr.  
24 Paparian's comment also, he mentioned Evan Edgar, I'd  
25 like to just say that Evan Edgar used to work for Kern

1 County Waste Management Department.

2 BOARD CHAIR MARIN: So it's all his fault.

3 MR. O'NEAL: He is, he is the father of the  
4 Veno Landfill. And he has also been on the other side  
5 of our LEA in our enforcement actions as are other civil  
6 engineers that work for waste management department.

7 I would like to offer the waste management  
8 department to come forward, either Brian Klate, a  
9 supervising engineer, or Daphne Washington who is the  
10 director of the Waste Management Department if they  
11 would like to further respond to your comments.

12 MS. WASHINGTON: Good morning. I would say  
13 it's a pleasure to be before you this morning, but I  
14 would rather not have made my first appearance before  
15 you under these circumstances.

16 But my name is Daphne Washington, and I am the  
17 Director of the Waste Management Department in Kern  
18 County. We serve an 8,000 square mile county. We  
19 operate seven landfills, nine transfer stations,  
20 maintain eight closed landfills, and 58 burn dumps, in  
21 addition to all of the recycling and household hazardous  
22 waste. So we are a department that provides all of the  
23 waste management services.

24 And I certainly don't want to leave you with  
25 the impression that we have a complete disregard for

1 regulatory compliance. And let me take a moment to tell  
2 you about the commitment that this department has to  
3 regulatory compliance.

4 Now although the Ridgecrest facility may  
5 suggest otherwise, our department is committed to  
6 compliance. Specifically, I have stated to my Board,  
7 the Board of Supervisors, that we will achieve zero  
8 violations as a personal goal in my performance review.  
9 I have stated that goal in each of my division managers  
10 and all of my supervising engineers. That is the  
11 expectation. It is in their annual performance review,  
12 and has been for the last five years.

13 So it did not escape me as well that we were  
14 not meeting the goal because I had to provide an  
15 explanation to my Board of Supervisors as to why we were  
16 going in the wrong direction. So I am held accountable  
17 as well.

18 In addition to having that expectation, we have  
19 modified our contracts with our contract operators to  
20 include, in addition to liquidated damages where we can  
21 impose penalties on them for failing to perform the  
22 services that we have contracted them for, we have  
23 included some incentives, we've included some carrots.  
24 And we now offer incentives to those operators who help  
25 us to avoid violations.

1           And that has been very effective in all of our  
2 other landfills, and even at this landfill in the past,  
3 but not entirely.

4           And finally, where the Waste Management  
5 Department itself serves as the operator, and we do for  
6 eight of our facilities, in 2003 we had zero violations,  
7 and in 2004 we received two violations, all sites. So  
8 we have this commitment.

9           So what went wrong with Ridgecrest, I think is  
10 the question that is banked. Well, it seems like if it  
11 could happen, it did. Our contractor who served that,  
12 as we explained, remote community, he lost his key, his  
13 key equipment operator. Right at the time as we were  
14 seeking our permit, everything started to go south.

15           There is no public water supply available to us  
16 so we have our own well, and that well failed, and we  
17 had to purchase and tank water in. Well, in using that  
18 water conservatively, he was not able to achieve the  
19 compaction that we desired for him to achieve, with the  
20 daily cover that we desired him to accomplish as he was  
21 trying to be efficient in the use of the water.

22           At no time was this landfill ever operated in a  
23 way that was a threat to the public health or the  
24 environment. I've reviewed the photographic history of  
25 the pictures taken at our facility weekly by our staff

1 to make sure that as we're experiencing these problems  
2 we didn't have something out there that would be an  
3 embarrassment to my Board and to myself.

4 So how, what are we going to do differently in  
5 the future to avoid finding myself in this position  
6 before you today?

7 Well, we have, I realize, and one of the  
8 difficulties that we had was we did not have enough  
9 staff allocated to provide oversight to all of the  
10 facilities that we have. So we've added some positions.  
11 I've added one position called a supervising engineer,  
12 and he is here with me today to get this perspective of  
13 how important this is, not only to this department but  
14 to your Board.

15 And we're providing training to all of our  
16 staff.

17 And we're going to use more effectively the  
18 tools that we have available to us such as imposing  
19 liquidated damages. Being sensitive to the contractor's  
20 problems is important, but at the point when it  
21 jeopardizes our effectiveness then we've got to change  
22 our approach.

23 And I thank you for giving us this opportunity  
24 to talk to you.

25 BOARD CHAIR MARIN: And thank you.



1           And Ms. Peace, you have a comment?

2           BOARD MEMBER PEACE: Yes, I just noticed that  
3 many violations that were noted on the report, that was  
4 a good thing that the LEA did, but many of the  
5 violations, the same ones were noted over and over  
6 again, not only for grading, but scavenging, litter  
7 control, daily cover, ADC. And it says here in the  
8 report that the facility was listed in violation, you  
9 know, on the monthly inspection reports, but the LEA did  
10 not take any other enforcement action against the  
11 operator.

12           What other enforcement action could you have  
13 taken?

14           MS. WASHINGTON: I'll turn to the LEA at this  
15 point.

16           MS. WILSON: We did have compliance meetings  
17 with them regarding several of the issues. They were  
18 listed on the, or received a letter of intent from the  
19 Board itself. Our next enforcement action could have  
20 been a notice and order.

21           We did feel that we are in control of the  
22 situation, that we were working with the operator, there  
23 were several issues involved, not only just the state  
24 minimum standards violations but involving the Board of  
25 Supervisors wanting to go a different direction with

1 this landfill. These things took staff time from the  
2 Waste Management Department Board for cost analysis and  
3 other issues.

4 We could have issued a notice and order, we  
5 probably should have. We ourselves have taken an action  
6 to hopefully prevent further lapses in our enforcement,  
7 and that is having a full-time, a half-time staff member  
8 actually who will be taking the, filling the gap between  
9 the inspector role and the enforcement role.

10 And when a site does need to go to that level  
11 of enforcement after compliance meetings and other  
12 exhaustive measures have been employed, then we will be  
13 using that person and she will be drafting the notice  
14 and orders.

15 A notice and order, as you know, does take  
16 several hours of time away from other staff duties, and  
17 that's why we have decided to handle this with  
18 reassigning one position.

19 BOARD CHAIR MARIN: Thank you very much.

20 MR. O'RULLIAN: I'd like to follow with the  
21 comment that the, although there have been violations  
22 that are listed in the same category, it is not in the  
23 same location or the same violation each time. So  
24 monthly, as our inspector Larry Carroll visits that  
25 site, and that's also Chris Deidrick of your staff that

1 has visited the site, there have been other issues that  
2 have arisen, and either they are addressed or the long  
3 term issues that we've already indicated with the green  
4 waste, those took longer. But bear in mind that it's  
5 not always the same type of violation.

6 Although it might be listed as litter, it might  
7 be litter in a different location or a grading issue in  
8 a different location of the site.

9 BOARD CHAIR MARIN: Thank you.

10 Mr. Paparian, final comment?

11 BOARD MEMBER PAPARIAN: I just wanted to ask  
12 our staff, now you're in the process of doing an  
13 evaluation of the LEA, did I understand that right?

14 MR. LEVENSON: That evaluation will start in  
15 about a week, and that will cover the prior three years.  
16 And we will be looking at this, we've talked to the LEA  
17 and we will be working with them to come up with an LEA  
18 evaluation work plan with different milestones,  
19 compliance deadlines.

20 BOARD MEMBER PAPARIAN: Now some of the  
21 violations were noted when we inspected, is that right?

22 MR. LEVENSON: I think originally that's  
23 correct.

24 Chris, can you answer that one?

25 MR. DEIDRICK: Mr. Paparian, what you see in

1 your report is just the LEA violations.

2 BOARD MEMBER PAPARIAN: Okay.

3 MR. DEIDRICK: I didn't indicate our periodic  
4 inspection reports because they often mimic what the LEA  
5 has done and it would be double jeopardy in my opinion,  
6 so. But when I go out with the Kern County LEA, it's  
7 rare when we don't agree upon a finding, so --.

8 BOARD MEMBER PAPARIAN: If we, if we let this  
9 one through, is it possible to do an unannounced  
10 inspection sometime?

11 MR. O'RULLIAN: They're all unannounced.

12 BOARD MEMBER PAPARIAN: I mean from our staff  
13 just to make sure we're --

14 MR. DEIDRICK: My inspections are unannounced.  
15 The only one, the LEA knows that I'm coming, but the  
16 operator is not aware of the date that we arrive at that  
17 landfill.

18 Now I can go without telling the LEA if you'd  
19 like, but that's typically --

20 BOARD MEMBER PAPARIAN: I just want to, you  
21 know, it just, there's, you know, I don't know if we've  
22 gotten to the heart of the problem here or not, but  
23 there's a problem here more than I've seen with other  
24 facilities and I just want to make sure that, you know,  
25 I take people at their word that they're trying to

1 correct the problem but, you know, I think we may need  
2 to have a little oversight.

3 It's like, you know, if my kids don't do their  
4 homework enough times I need to step in and, you know,  
5 do a little oversight and maybe some sanctions, so --

6 BOARD CHAIR MARIN: I think that one of the  
7 most important things, and clearly by their presence  
8 here, their strong presence here today, that they've all  
9 received a very loud message from this particular Board,  
10 Mr. Paparian.

11 It seems to me that they're going to go back  
12 and work fastidiously to assure that they come into  
13 compliance.

14 Is there a motion?

15 BOARD MEMBER MULE: Motion to approve  
16 Resolution 2004-308.

17 BOARD MEMBER MOULTON-PATTERSON: I still have a  
18 question.

19 BOARD CHAIR MARIN: Okay. Ms. Moulton-  
20 Patterson.

21 BOARD MEMBER MOULTON-PATTERSON: Thank you.  
22 Thank you very much.

23 Unannounced to me would be not telling the  
24 LEA. I mean, you know, this is shades of Senator  
25 Roberti's comments in the past that the LEA is a county

1 employee, this is a county run facility. I mean to me,  
2 maybe I'm off base here, but unannounced would be  
3 unannounced. And especially when I look at all, you  
4 know, if I'm going to vote for this I'd want to know  
5 that you would be doing that in the future.

6 BOARD CHAIR MARIN: Let me just ask our legal  
7 counsel. Nothing prevents us or our staff from doing  
8 things that are unannounced, we do that as a matter of  
9 fact every now and then, don't we?

10 CHIEF LEGAL COUNSEL CARTER: Yes. Yes, we do.

11 MR. LEVENSON: Madam Chair and Board members,  
12 we certainly can conduct an unannounced inspection and  
13 report those results back to you. And we will continue  
14 to take these issues up during the course of the LEA  
15 evaluation, and we can also provide updates to you  
16 throughout that process.

17 BOARD MEMBER MOULTON-PATTERSON: Thank you.  
18 Thank you, Madam Chair.

19 BOARD CHAIR MARIN: Okay. Ms. Peace.

20 BOARD MEMBER PEACE: I'm just trying to see  
21 what is going to change and what happens if things don't  
22 get better, they continue to do these violations? At  
23 some point can we tell them, the LEA to put them on a  
24 notice and order, or what is it that we can do other  
25 than put the LEA through this performance evaluation?

1           MR. LEVENSON: We can always, we always are  
2 working with the LEA to try and advise them in terms of  
3 appropriate enforcement actions. We've discussed this  
4 site with them.

5           I think, as the Chair said, they have gotten  
6 the message that there's concern on the part of this  
7 Board about the lack of appropriate enforcement actions,  
8 that's been reflected in staff's discussions with them  
9 as well. So we are working with them to move towards  
10 that.

11          BOARD MEMBER PEACE: Do you feel comfortable  
12 with that? You're going to see this clean up?

13          MR. LEVENSON: Well I think that's what the  
14 process is set up to do. If we come out of the LEA  
15 evaluation with certain findings and then set up work  
16 plans, then those work plans have, the steps in that  
17 work plan have to be met. If they aren't, then we can  
18 take the LEA before you at some point for further  
19 consideration of other actions.

20          BOARD MEMBER PEACE: Thank you.

21          BOARD CHAIR MARIN: And I think that the Board  
22 needs to understand that that is the one of the reasons  
23 that it's coming to the Board. We noticed, the comments  
24 that every Board member made today were actually made at  
25 the committee level, but we thought that this was

1 important for the entire Board, we felt that all of you  
2 would agree with that.

3 And I'm glad that the message has been sent,  
4 and I am sure has been received loud and clear.

5 Without any further comments, Ms. Mule.

6 BOARD MEMBER MULE: Move approval of Resolution  
7 2004-308.

8 BOARD CHAIR MARIN: Is there a second?

9 I'll second for a vote.

10 Call the roll, please.

11 BOARD SECRETARY JIMENEZ: Moulton-Patterson?

12 BOARD MEMBER MOULTON-PATTERSON: Can we still  
13 pass for one round? We used to be able to do that.

14 CHIEF LEGAL COUNSEL CARTER: Yes, you may.

15 BOARD MEMBER MOULTON-PATTERSON: Thanks.

16 BOARD SECRETARY JIMENEZ: Peace?

17 BOARD MEMBER PEACE: I'll vote aye. We're not  
18 increasing the tonnage or increasing, making anything  
19 bigger, this is just kind of a couple little cleanup  
20 items, I'll vote aye.

21 BOARD SECRETARY JIMENEZ: Mule?

22 BOARD MEMBER MULE: Aye.

23 BOARD SECRETARY JIMENEZ: Paparian?

24 BOARD MEMBER PAPARIAN: Pass for this round.

25 BOARD SECRETARY JIMENEZ: Washington?



1 BOARD MEMBER WASHINGTON: Aye.

2 BOARD SECRETARY JIMENEZ: Marin?

3 BOARD CHAIR MARIN: Aye. Okay, unless anybody  
4 wants to change their vote we'll go --

5 BOARD MEMBER MOULTON-PATTERSON: I just want to  
6 record mine, thank you, because we just passed me.

7 BOARD CHAIR MARIN: Right.

8 BOARD MEMBER MOULTON-PATTERSON: I'll vote aye.  
9 And you know, I think everybody knows there are  
10 concerns, but I'll go ahead and vote aye. Thank you.

11 BOARD MEMBER PAPARIAN: And Madam Chair, I'll,  
12 this is one of the more reluctant ones.

13 BOARD CHAIR MARIN: I understand.

14 BOARD MEMBER PAPARIAN: But I'll vote aye as  
15 well. Hopefully the message has been received by  
16 everybody that this is a facility that really, you know,  
17 needs some scrutiny, needs to clean up its operation.

18 BOARD CHAIR MARIN: Thank you. I really  
19 appreciate all of you coming. And again let me just  
20 reiterate this Board is very serious about this  
21 particular issue.

22 Okay. That leads us to item 29.

23 MR. LEVENSON: Item 29 is consideration of the  
24 new composting permit composting facility for the El  
25 Nido Composting Facility, Synagro West in Merced County.

1           And at the committee meeting we had one finding  
2   that we were unable to make, but we've since been able  
3   to make that finding.

4           Erica Weber will make a very quick  
5   presentation.

6           BOARD CHAIR MARIN:   Perfect.

7           MS. WEBER:   This is an existing composting  
8   facility currently permitted via standardized permits.  
9   The facility never began operation.

10          The proposed permit would allow 355 tons per  
11   day of agricultural, liquids, green material, and sewage  
12   sludge waste types.

13          Sewage sludge is generated during the treatment  
14   of domestic sewage.

15          The source of feedstock will come from the  
16   Central Valley, but may extend to the Bay Area or other  
17   areas depending on market conditions and customer needs.

18          At the time this agenda item was written a  
19   finding was outstanding regarding conformance with the  
20   County Integrated Waste Management Plan.

21          The Board's Office of Local Assistance staff  
22   have since found the proposed permit to be in  
23   conformance with the county's Non-Disposal Facility  
24   Element.

25          Therefore, staff recommends the Board adopt

1 option one, concurrence in the issuance of the proposed  
2 permit.

3 The LEA and the operator are available to  
4 assist in responding to any questions you may have.

5 This concludes staff's presentation.

6 BOARD CHAIR MARIN: Thank you. Okay. What is  
7 the pleasure of the Board?

8 Ms. Mule.

9 BOARD MEMBER MULE: Thank you, Madam Chair.

10 Howard, we do have all the information that was  
11 necessary. Again, this was one of the permits that we  
12 did not have all the information available to us at the  
13 time of your committee meeting?

14 MR. LEVENSON: That's correct, member Mule.

15 BOARD MEMBER MULE: Okay. Thank you.

16 BOARD CHAIR MARIN: Okay. I'm ready for a  
17 motion. Without any further questions.

18 BOARD MEMBER MULE: I'll move approval of  
19 Resolution 2004-309 revised.

20 BOARD CHAIR MARIN: 309? I'm sorry, Yep, Yep,  
21 Yep. Yes, I'm sorry, I wasn't looking at the right one.

22 Okay. Is there a second?

23 BOARD MEMBER PEACE: Second.

24 BOARD CHAIR MARIN: Ms. Mule moves and Ms.  
25 Peace seconds it.

1           Call the roll again, please.

2           BOARD SECRETARY JIMENEZ: Moulton-Patterson?

3           BOARD MEMBER MOULTON-PATTERSON: Aye.

4           BOARD SECRETARY JIMENEZ: Peace?

5           BOARD MEMBER PEACE: Aye.

6           BOARD SECRETARY JIMENEZ: Mule?

7           BOARD MEMBER MULE: Aye.

8           BOARD SECRETARY JIMENEZ: Paparian?

9           BOARD MEMBER PAPARIAN: Aye.

10          BOARD SECRETARY JIMENEZ: Washington?

11          BOARD MEMBER WASHINGTON: Aye.

12          BOARD SECRETARY JIMENEZ: Marin?

13          BOARD CHAIR MARIN: Aye. Thank you. Okay.

14          Thank you very much, Howard, and the entire

15 committee. Item 30 will be taken after lunch.

16          The next item is Special Waste Committee

17 report. Ms. Peace.

18          BOARD MEMBER PEACE: Okay. At our last

19 committee meeting we heard six items at the Special

20 Waste Committee, and we had a four and a half hour, four

21 and a half hours of discussion on some very detailed

22 items, items that asked for direction and requests for

23 redirection on how we handle certain parts of our tire

24 and oil program, how we will handle them in the future.

25          I would like to thank our tire and oil staffs

1 for all of their hard work, for their ability to craft  
2 compromises, and their patience in answering all of the  
3 committee's questions.

4 Item number 31 was the scope of work of the  
5 national product stewardship dialogue for tires, and  
6 after much discussion this was placed on consent.

7 Item 32, eligibility and scoring criteria for  
8 the tire product commercialization grant program.  
9 Because there were some major changes made to that we  
10 moved this item to the full Board even though the  
11 revised item had full committee support.

12 Item 33 was a discussion for committee only on  
13 request for the direction for promoting rubberized  
14 asphalt concrete.

15 Staff made a pitch for promoting RAC in a whole  
16 new way which included contracting with a public  
17 relations firm and a technical expert. We agreed with  
18 staff's proposal and asked them to proceed.

19 Item 34, revision of the scope of work and  
20 augmentation of the contract for the Southern California  
21 RAC technology center. This was a fiscal item, we moved  
22 it to the full Board on a, 3-0 vote. And we did make a  
23 change, however, with the contract with the Southern  
24 California RAC technology center. The contract will be  
25 for '04-'05 only, and not '05-'06. The '05-'06 contract

1 will be considered and decided on as part of the five  
2 year tire plan that we are working on right now.

3 Item 35, allocations and concepts for the used  
4 oil fund. This item had full committee support but was  
5 moved to the full Board as it is a fiscal item.

6 Item number 36, scoring criteria for joint  
7 solicitation of the used oil grant program and the used  
8 oil research testing and demonstration grant program was  
9 placed on consent.

10 And that concludes my report.

11 BOARD CHAIR MARIN: Thank you, Ms. Peace.

12 That leads us to item number 32. Mr. Lee, are  
13 you going to make that presentation?

14 MR. LEE: Yes, Madam Chair, thank you. Good  
15 afternoon Board members. My name is Jim Lee with the  
16 Special Waste Division.

17 Board item 32 is consideration of proposed  
18 applicant eligibility and evaluation process for the  
19 tire product commercialization grant program for fiscal  
20 year 2004-05.

21 This item was heard by the Special Waste  
22 Committee and recommended to the full Board for  
23 consideration of several revisions noted in the revised  
24 agenda item and resolution you have before you.

25 Mitch Delmage will give a brief synopsis and

1 overview of the item and the proposed changes.

2 BOARD CHAIR MARIN: Thank you, Mitch.

3 MR. DELMAGE: Good afternoon, Madam Chair,  
4 Board members. My name is Mitch Delmage, I'm with the  
5 Special Waste Division's Waste Tire Program.

6 As Mr. Lee stated, there have been changes and  
7 you should have those before you. I'd like to take you  
8 through the changes on this particular item.

9 On page two under ineligible applicants there  
10 was an enforcement action category added, a sixth way  
11 that somebody can become ineligible.

12 "The applicant has had a final  
13 administrative decision for penalties,  
14 permit revocations, suspensions, hauler  
15 penalties, suspensions or revocations  
16 against them in the last two years. A  
17 'final administrative decision' is one  
18 from which all appeals have either been  
19 exhausted or the applicant chose not to  
20 pursue an appeal and the time to file  
21 an appeal has expired."

22 On page three under ineligible projects was  
23 added,

24 "Any project that uses pyrolysis,  
25 gasification, or liquefaction technologies,"

1           was added.

2           On page three, again under proposed program  
3 criteria, this had to do with several requests that we  
4 had about companies coming from out of state and  
5 establishing operations here in California just to  
6 receive the grant or as a pre-condition to receive the  
7 grant.

8           We've worked with legal to come up with  
9 language, and I'd like to read that to you from the  
10 actual scoring criteria. It now becomes program  
11 criteria eight, and the title of that criteria,  
12 criterion is, "Location of principal place of business  
13 and length of time business qualified to operate in  
14 California."

15           For businesses that have their principal place  
16 of business in California, they would receive five  
17 points.

18           For businesses whose principal place of  
19 business is outside California, but has been qualified  
20 to do business in California for at least two years  
21 prior to the application deadline as evidenced by a  
22 filing with the Secretary of State and/or having been  
23 issued a seller's permit by the State Board of  
24 Equalization, they would also receive five points.

25           If the business that will perform this project



1 whose principal place of business is outside California,  
2 has not been qualified to do business in California for  
3 at least two years prior to the application deadline as  
4 evidenced by a filing with the Secretary of State and/or  
5 having been issued a seller's permit by the State Board  
6 of Equalization will not receive points.

7           This program criteria replaces what was  
8 formerly called production. The fifteen points was  
9 redistributed. Five of those points remained with the  
10 new criteria eight. Ten points went to need, where we  
11 feel that the way the need is expressed this year,  
12 referring to markets and the availability of markets,  
13 the production issues would be handled in that  
14 particular criterion.

15           There was also a change made to criterion  
16 number ten, it was broken into two parts. The first  
17 part remain the same and gave five points to applicants  
18 that had not received funding from the CIWMB for tire  
19 product commercialization grant within the last three  
20 fiscal years.

21           What was added was 10(B). Business could also,  
22 a project could also receive five points for being  
23 located within a market, recycling market development  
24 zone.

25           There is one last minor change, a clerical

1 error on criterion number nine on capacity. Under the  
2 second part under or, the second line item for up to  
3 fifteen points should be, "Applicant will process  
4 between 249,999" so that it matches what was changed  
5 above it.

6 I believe that was all the changes, if there's  
7 any questions I'd be happy to go into that.

8 BOARD MEMBER PEACE: Actually that where you  
9 just mentioned you changed the numbers, would that mean  
10 that the next number below it would need to be changed  
11 also?

12 MR. DELMAGE: No, the first one goes from  
13 200,000 to 249,999 -- oh, oh, you're right, I'm so  
14 sorry. It should be 250,000, zero zero zero. Thank you  
15 so much, Ms. Peace.

16 BOARD MEMBER PEACE: Okay. Just one other  
17 thing. When you added in that projects that use  
18 pyrolysis, gasification, or liquefaction would now be  
19 ineligible, do you want to explain why we felt we needed  
20 to do that?

21 MR. LEE: Yes, Ms. Peace. The situation there  
22 is that, as we understand it, the Board will be  
23 considering policy in this area when a report that's due  
24 to the legislature on conversion technology I guess is  
25 going to be heard in the next month or so, there was

1 some discussion that to, you know, the staff wanted to  
2 avoid, you know, prejudicing that decision. So we  
3 thought it would be prudent, you know, to wait for the  
4 Board's determination on that before we, you know,  
5 propose any policy consideration, policy changes for  
6 this particular item.

7 This is also consistent, I believe, with the  
8 direction that we received from the Board in September  
9 where they basically said that, you know, for this  
10 particular item that we were to avoid, you know, making  
11 substantive changes for this year's allocation, that  
12 those would be discussed subsequently as part of the  
13 five year plan process.

14 BOARD MEMBER PEACE: Okay. Thank you.

15 BOARD CHAIR MARIN: Okay. Is there any further  
16 discussion from the Board?

17 Without that, Ms. Peace, would you like to make  
18 a motion?

19 BOARD MEMBER PEACE: I'd like to move  
20 Resolution 2004-312, revised, consideration of the  
21 proposed applicant eligibility criteria project  
22 eligibility criteria, scoring criteria evaluation  
23 process for the tire product commercialization grant  
24 program for fiscal year '04-'05.

25 BOARD CHAIR MARIN: You know, I actually jumped

1 a little too fast requesting this because we do have a  
2 couple of people that want to speak. I'm sorry about  
3 that, but we'll take that motion after that.

4 The first person, Terry Leveille from TL &  
5 Associates.

6 MR. LEVEILLE: I'm Terry Leveille from TL &  
7 Associates. Thank you, I'll be very quick.

8 The committee, I squawked about a few items  
9 that came before on this particular issue that came  
10 before the committee, and I think that the way that it  
11 was handled by the staff and the committee were, I've  
12 talked with my clients, they seem to be okay with it, so  
13 I just wanted to let you know that.

14 On the pyrolysis issue, I do have a client that  
15 did have some concerns because he had a pyrolysis  
16 operation last year that got denied, and was told by  
17 staff and by the Board that next year, after the report  
18 came in which was supposed to be coming in in the spring  
19 or early summer of 2004, that they would be able to at  
20 least ascertain whether or not that that project would  
21 be eligible for applying for a grant, not that it would  
22 be eligible for a grant, applying for a grant.

23 Since that time I've talked to him and he  
24 suggested well, what if I put in a proposal that would  
25 provide, purchase the equipment to provide the feedstock

1 with the grant money and with match money and the siting  
2 and other equipment. And then on my own I do, I set up  
3 my own little pyrolysis mechanism.

4 And I've talked with your legal counsel, they  
5 said that that was fine. Talked with your staff, they  
6 said that was fine. So he will probably be doing  
7 something along those lines.

8 And I guess we wanted to inform you that that  
9 was one way that we could, you know, we felt comfortable  
10 with the outcome of the committee action.

11 Just a real quicky. I thought that just for  
12 understanding when, on number eight, when we're talking  
13 about principal place of business, is that defined in  
14 statute or in, somewhere in the application process so  
15 that companies that are out of state understand what  
16 they mean by principal place of business?

17 CHIEF LEGAL COUNSEL CARTER: We can define that  
18 in the application.

19 BOARD CHAIR MARIN: Then that will be the case  
20 then. Thank you, Mr. Leveille.

21 MR. LEVEILLE: Just one more. I just thought  
22 for clarification purpose on that program criteria since  
23 there only is a total of five points in that, that the,  
24 that there's, it might be more, for clarification you  
25 might want to put an "or" between the two five point

1 boxes in the top of that program criteria.

2 BOARD CHAIR MARIN: That makes sense.

3 MR. LEVEILLE: Just to make, it makes a little  
4 sense.

5 BOARD CHAIR MARIN: Yeah.

6 MR. LEVEILLE: And then finally, we did,  
7 there's nothing in here on that one hundred percent  
8 recycled, post consumer recycled content paper that is  
9 required for these types of things.

10 I thought that the, I think it was Mitch's  
11 suggestion that applicants attach a copy of the, of the  
12 paper label or something along those lines with their  
13 application that would show that they are using one  
14 hundred percent post consumer recycled content paper.

15 I think that's a perfectly good way to make it  
16 an even playing field and so that it encourages people  
17 to use that type of paper. And there's probably going  
18 to be less of a squawking of the fact that you're not  
19 going to be able to monitor every one of those  
20 applications.

21 And I think if you go along those lines it  
22 might be a good addition to the application process.

23 BOARD CHAIR MARIN: Mr. Lee?

24 MR. LEE: We, well let's try and take each of  
25 these things as they were brought up. With regards to

1 the paper issue and the recycled paper, I guess in  
2 looking at my staff here we can certainly, as part of  
3 their application, ask them to begin to provide some  
4 evidence that they have complied with that particular  
5 criterion.

6 The second issue with regards to the  
7 clarification of the criteria, the introduction of the  
8 word "or" on criteria, on criteria eight, you know, we  
9 concur that that's acceptable.

10 With the issue with regards to the discussion  
11 of the potential eligibility of a, of the project of Mr.  
12 Leveille's client, I think again the devil is always in  
13 the details, again all we can do is encourage him to  
14 apply, and again we will certainly try to construe our  
15 guidance as broadly as possible, but I don't want to,  
16 you know, prejudge the acceptability of an application  
17 without having, you know, seen it.

18 BOARD CHAIR MARIN: Yeah, I don't think he  
19 expects that at all.

20 Thank you, Mr. Leveille.

21 The next one is Mr. Tom Faust.

22 MR. FAUST: Good afternoon, Madam Chair and  
23 Board members.

24 You should have before you a copy of my written  
25 comments. Does everyone have that?

1           One of the things I'd like to do is poll each  
2 of you individually on one simple question. This is the  
3 question, do you support Governor Schwarzenegger's  
4 efforts to support greenhouse gasses?

5           BOARD CHAIR MARIN: Mr. -- we're not going to  
6 do that, that would be very inappropriate for you to do  
7 that. Go ahead and make your comments, make your  
8 statement, but it would be very inappropriate for you to  
9 be polling this Board.

10          You will have our poll when we take a vote.

11          MR. FAUST: Okay. Okay. Well, I won't poll  
12 the Board, but I just want to point out that Governor  
13 Schwarzenegger has his hydrogen highway project, and  
14 he's been supportive of getting the Air Resources Board  
15 to significantly reduce automotive generated greenhouse  
16 gasses. In other words, he is doing everything possible  
17 to make California comply with the Kyoto Accord.

18          And when I look at the grading on this system,  
19 I don't see anything that forces any grading or any  
20 consideration of anything for greenhouse gasses.

21          For example, in general criteria, need, these  
22 are all subjective criteria, there's nothing  
23 quantitative in here at all.

24          And one -- in my proposal, what I did is I  
25 suggested a substitution of reducing the, the,



1 eliminating a lot of the different categories that are  
2 really subjective and converting it into quantitative.

3           For example, the 55 countries that sign the  
4 Kyoto Accord are going to be meeting in February to  
5 establish punitive actions against the rest of the world  
6 to get them to sign onto the principles of reducing  
7 greenhouse gasses. It seems that we should start  
8 recognizing this criteria and reducing greenhouse  
9 gasses.

10           Recycling using ultrasonic devulcanization has  
11 a 34 times advantage over, over the status quo, that's  
12 burying and, and just shredding and all of those. 34  
13 times less greenhouse gasses.

14           Yet our company, due to a criteria that is  
15 established in this system, in the scoring criteria, is  
16 actually precluded from actually submitting a grant in  
17 on this due to monetary restrictions and administrative  
18 actions. And I really think that's a shame.

19           So if you're going to exclude rubber from being  
20 at the same table, I urge you to, at least in my perfect  
21 world it should have at least 35 points allocated  
22 according to the schedule that I've, that I've allocated  
23 here. And that is a need, reducing it down to fifteen  
24 points, you have 30 points on your new system, that's on  
25 page two of my proposal, eliminating the points for

1 goals and objectives, work plan, and budget zero, and  
2 putting the categories that are trimmed and allocating a  
3 focus on greenhouse gasses. I mean this is in my  
4 perfect world.

5 Now, you can have all different versions of  
6 that and compromises, but somewhere in between ten and  
7 35 points should be at least on recognizing efficient  
8 environmental processes, and you don't have that in  
9 here. I mean the person that shreds the tire, they can  
10 get just as much as, they can win, all these people that  
11 shred tires and don't contribute anything to the  
12 environment.

13 BOARD CHAIR MARIN: Okay. Thank you, Mr.  
14 Faust.

15 Mr. Lee, is there, is there -- let me just,  
16 usually we allow three minutes for people to make their  
17 case, I've allowed you five minutes.

18 So Mr. Lee, is there -- I have a timer right  
19 here.

20 Mr. Lee, is there a comment regarding Mr.  
21 Faust's comments?

22 MR. LEE: Yes, Madam Chair, just briefly.  
23 First of all, again, I wanted the Board to know that  
24 devulcanization projects are explicitly grant eligible  
25 as part of this grant cycle, and that was despite the

1 fact that a third party evaluation that the Board funded  
2 and presented recommendations a couple of months ago  
3 indicating that there is some question about the cost  
4 effectiveness of those projects in the near term.

5 That fact notwithstanding, again Board staff  
6 did not want to preclude the consideration or chances to  
7 continue to look at this into the future. So again, the  
8 devulcanizations can compete.

9 With regards to Mr. Faust's specific situation,  
10 with regards to monetary restrictions, again, as I  
11 understand it, I believe his project is for considerably  
12 more money than what the grant program currently allows  
13 for, but this is consistent with Board direction in the  
14 past that we don't want to put all of our eggs in one  
15 basket, and so I don't think that we can accommodate the  
16 size of project that he's talking about, at least in  
17 total.

18 And finally, with regard to the administrative  
19 restrictions, I think we outlined in the Special Waste  
20 Committee the reasons for that particular requirement.

21 And then I believe that even in Mr. Faust's  
22 situation, the administrative problems could be resolved  
23 if he was to pay back the money by the, that I believe  
24 is owed as part of the problems with, experience with  
25 the previous, you know, grant project.

1 BOARD CHAIR MARIN: Thank you, Mr. Lee.

2 Mr. Paparian and then Ms. Peace.

3 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

4 I'm not sure we did ex-parte right after the  
5 break, I should ex-parte I did talk with Mr. Faust at  
6 the break briefly. I also spoke to him yesterday about  
7 his concerns.

8 And I think he's onto something in terms of  
9 climate change being a major issue that we ought to  
10 consider in some fashion. What I told Mr. Faust  
11 yesterday was that if we do that, we ought to decide  
12 whether we're going to do it, and then if we do it we  
13 should look at it overall with our programs and then  
14 decide how it might apply in things like this or any  
15 other program that we're implementing.

16 I know Mr. Tamminen has spoken, you know, quite  
17 strongly about climate change issues. And I know Cal  
18 EPA has had a commitment to trying to reduce its own  
19 impacts on climate changes. And so at some point I  
20 think we're going to have to take a look at that. But I  
21 think that we're going to have to look at it in terms of  
22 our overall program and then decide how we might address  
23 it as we go forward with these projects.

24 So I'll, without polling the Board, I'll bet  
25 the Board's not ready to do that with this particular

1 project, so I'm not pursuing it with this project.

2 BOARD CHAIR MARIN: Okay. Thank you, Mr.  
3 Paparian.

4 Ms. Peace.

5 BOARD MEMBER PEACE: Yes, I do. I do want to  
6 say, you know, we are all concerned about greenhouse  
7 gasses and the effect of those gasses. The fact is we  
8 will be proposing, as part of the five year tire plan, a  
9 life cycle analysis study on the environmental effects  
10 of all of the different tire recycling processes. So we  
11 will be discussing that as part of the five year plan.

12 MR. FAUST: Ms. Peace, I submitted this last  
13 July or August, that's in the year 2003, and nothing's  
14 happened since on the greenhouse, it just keeps on going  
15 in the circular file.

16 You know, you know, Ms. Marin talked about,  
17 earlier about we should, what is it, talk the walk or,  
18 you know, you were -- we should --

19 BOARD CHAIR MARIN: It was somebody else that  
20 did that, but I agree with that as well.

21 MR. FAUST: Well okay, you know what I'm trying  
22 to say.

23 You know, that we should, we should put our  
24 money into the things that do it and just, and just not  
25 glide comments on it.

1 BOARD CHAIR MARIN: Thank you, Mr. Faust.

2 Okay. Is there a motion from the Board?

3 BOARD MEMBER PEACE: I'll make the motion  
4 again, Resolution 2004-312 revised with the addition of  
5 the "or" word in the criterion number eight.

6 BOARD MEMBER MOULTON-PATTERSON: I'll second.

7 BOARD CHAIR MARIN: Okay. Moved by Ms. Peace,  
8 seconded by Moulton-Patterson. Without objection we  
9 will substitute the previous roll call.

10 The next item, Mr. Lee, is item 34.

11 MR. LEE: Thank you, Madam Chair. Item 34 is  
12 consideration of revision of scope of work and  
13 augmentation of the contract for the Southern California  
14 Rubberized Asphalt Concrete Technology Center, and  
15 consideration of continuation of Los Angeles County as  
16 contractor, Tire Recycling Management Fund, fiscal year  
17 2004-05.

18 This item was heard by the Special Waste  
19 Committee and recommended for fiscal consent with a  
20 revision to provide for fiscal year 2004-05 funding only  
21 in the amount of \$225,000.

22 Staff asks the Board approve resolution 2004-13  
23 as revised.

24 BOARD CHAIR MARIN: Okay. Any comments from  
25 the Board?

1 BOARD MEMBER WASHINGTON: Just a question,  
2 Madam Chair, to Mr. Lee.

3 What happened with the Northern California RAC  
4 Center, they're fine?

5 MR. LEE: The Northern California center has  
6 funds from previous fiscal years to support them through  
7 the remainder of this fiscal year. And again there will  
8 be a consideration of additional funding for them that's  
9 brought forth as part of the five year plan process.

10 BOARD MEMBER WASHINGTON: Thank you.

11 BOARD CHAIR MARIN: Okay. Is there a motion?

12 BOARD MEMBER PEACE: I just got the revised  
13 item and I was sure that we all agreed that we were just  
14 going to do this for fiscal year 2004-2005 and make  
15 2005-2006 part of the five year plan. The revised item  
16 still says '04-'05 and '05-'06.

17 MR. LEE: I believe that only states that in  
18 the title, Ms. Peace. I was told by our administrative  
19 people that since that was the title that was published  
20 that we can't make any changes in that, however the  
21 resolution does reflect the direction we received from  
22 you and the rest of the Special Waste Committee.

23 BOARD CHAIR MARIN: Especially on the "be it  
24 further resolved."

25 MR. LEE: That is correct, Madam Chair.

1 BOARD MEMBER PEACE: Okay. I see, okay.

2 That's interesting. Okay. Then I will move Resolution  
3 2004-313 revised.

4 BOARD CHAIR MARIN: Okay. Is there a second?

5 BOARD MEMBER MOULTON-PATTERSON: I'll second.

6 BOARD CHAIR MARIN: Moved by Ms. Peace,  
7 seconded by Moulton-Patterson. And without objection we  
8 will substitute the previous roll call.

9 That leads us to 35.

10 MR. LEE: Thank you, Madam Chair. Item 35 is  
11 consideration of proposed allocation and concepts for  
12 consulting and professional services contract for used  
13 oil fund, fiscal year 2004-05, status report on the used  
14 oil recycling fund, and consideration of proposals to  
15 increase available resources for the used oil fund.

16 This item was heard by the Special Waste  
17 Committee who endorsed staff proposals for expenditure  
18 of \$752,000 for identified education and outreach  
19 activities.

20 A proposed implementation plan for the used oil  
21 program and proposals for investigating potential means  
22 for increasing revenue in the used oil program.

23 The Special Waste Committee recommended this  
24 item for fiscal consent, and their direction is  
25 reflected on the revised resolution you have before you.



1           Staff recommends that the Board approve

2 Resolution 2004-314 as revised.

3           BOARD CHAIR MARIN: Okay. I'm going to finish  
4 with item 35.

5           Is there a motion?

6           BOARD MEMBER PEACE: If there aren't any  
7 questions I'll go ahead and make the motion. Resolution  
8 -- I'd like to move Resolution 2004-314. This is  
9 consideration of the proposed allocations and concepts  
10 for consulting and professional services contracts for  
11 the used oil fund, fiscal year 2004-2005 and the status  
12 report on the used oil recycling fund and consideration  
13 of proposals to increase available resources for the  
14 used oil fund.

15          BOARD CHAIR MARIN: Okay, is there a second?

16          BOARD MEMBER WASHINGTON: Second.

17          BOARD CHAIR MARIN: Moved by Peace, seconded by  
18 Washington. And without objection we will also  
19 substitute the previous roll call.

20          I do have to say with all of this paper being  
21 passed to us right now I missed Donna Carlson, somebody  
22 who wanted to say something regarding item 34. I don't  
23 know if she's still here or she left once it was  
24 approved. Okay. I had not seen the, it was part of all  
25 the other paper so --.

1           35 -- what? 37, I'm sorry. 37. I was going  
2 to say, are you there for 35? Did I miss something, Mr.  
3 Elliot or are you just so ready to go with item 37?

4           LEGAL COUNSEL ELLIOT: Just ready to help you  
5 get onto your fun afternoon.

6           BOARD CHAIR MARIN: Okay.

7           LEGAL COUNSEL ELLIOT: I'm here to present item  
8 37, consideration of the 2005 annual rulemaking  
9 calendar. I note that I am last on the agenda again.

10           And actually I've got about, I've got a Power  
11 Point with about three slides, but it actually simply  
12 summarizes what's in the agenda item. So I could make a  
13 short presentation or just open it just to questions if  
14 you want? I know you have a lot still to do and it is  
15 already 12:30.

16           This is the annual rulemaking calendar, it's a  
17 standard requirement, we do this every year. And to the  
18 extent that new issues come up through the year we're  
19 not locked into this, we can still add items as the year  
20 progresses.

21           BOARD CHAIR MARIN: But we do have to publish  
22 this, right?

23           LEGAL COUNSEL ELLIOT: We do have to adopt it,  
24 we submit it to Cal EPA and then to OAL, and then they  
25 publish it for all the agencies.

1 BOARD CHAIR MARIN: Okay. Ms. Peace.

2 BOARD MEMBER PEACE: Yeah, I was just glad to  
3 hear, read that you can always add some things,  
4 especially emergency regulations, because what I'm  
5 hoping is that we might have some urgency, urgency bill  
6 for the tire manifest system that hopefully will go  
7 through this year.

8 LEGAL COUNSEL ELLIOT: And the standard is even  
9 looser than emergency regulations. If there's something  
10 new that came up that was unexpected, so --

11 BOARD CHAIR MARIN: Okay. Without any further  
12 discussion is there -- do we need a motion for this?

13 LEGAL COUNSEL BLOCK: Yes.

14 BOARD CHAIR MARIN: We do need to adopt it,  
15 yes.

16 LEGAL COUNSEL BLOCK: We have a resolution.

17 BOARD CHAIR MARIN: Yes, 310, 2004-310.

18 Is there a motion for that?

19 BOARD MEMBER PAPARIAN: So moved.

20 BOARD MEMBER MULE: Second.

21 BOARD CHAIR MARIN: Moved by Paparian, second  
22 by Mule. And without objection we'll substitute the  
23 previous roll call.

24 That takes us to lunch. We are going to be  
25 having a working lunch.

1 Marie Carter, there's a reason why we're going  
2 into closed session?

3 CHIEF LEGAL COUNSEL CARTER: Yes, Madam Chair.  
4 We're going to go into closed session under Government  
5 Code Section 11126(E) regarding pending litigation to  
6 discuss several matters, including agenda item 30.

7 BOARD CHAIR MARIN: Thank you very much. That  
8 will be the case, and we will attempt to be back sharp  
9 at 1:00 o'clock. Thank you.

10 (Thereupon the luncheon recess was taken.)

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1                               AFTERNOON SESSION

2                               --oOo--

3               BOARD CHAIR MARIN: We are, I know we're  
4 waiting for Mr. Carl Washington, but we're going to  
5 begin. Let me just reopen the meeting.

6               And we're going to take the roll. Ms. Jimenez.

7               BOARD SECRETARY JIMENEZ: Moulton-Patterson?

8               BOARD MEMBER MOULTON-PATTERSON: Here.

9               BOARD SECRETARY JIMENEZ: Peace?

10              BOARD MEMBER PEACE: Here.

11              BOARD SECRETARY JIMENEZ: Mule?

12              BOARD MEMBER MULE: Here.

13              BOARD SECRETARY JIMENEZ: Paparian?

14              BOARD MEMBER PAPARIAN: Here.

15              BOARD SECRETARY JIMENEZ: Washington?

16              BOARD CHAIR MARIN: He'll be here.

17              BOARD SECRETARY JIMENEZ: Marin?

18              BOARD CHAIR MARIN: I'm here. We are now going  
19 to be taking item 30, but I know Ms. Peace wants to make  
20 a statement.

21              BOARD MEMBER PEACE: Yes, I guess I have to  
22 make a statement. I have to say I hate to do this, and  
23 not only because I have very strong opinions on this  
24 issue, but because I take my responsibilities as a Board  
25 member very seriously.

1           As you know, the Gregory Canyon Landfill  
2   proposal was the subject of an initiative challenge in  
3   the past election. Two firms from which my husband has  
4   reportable income and ongoing business relations  
5   provided services to one of the campaign teams.

6           I have been advised that even though we have no  
7   ownership interest in the firms and no direct or  
8   indirect interest in the outcome of the vote, the FPPC  
9   guidelines are subject to interpretation with respect to  
10   indirect economic interest.

11           Just as importantly, I want to avoid even the  
12   appearance of a conflict. So I am, therefore, recusing  
13   myself from these proceedings.

14           BOARD CHAIR MARIN: Okay. Mr. Howard Levenson,  
15   you have item 30 to present.

16           MR. LEVENSON: Thank you, Madam Chair, and good  
17   afternoon Board members. This is item 30.

18           BOARD CHAIR MARIN: Oh, I always forget to do  
19   ex-parte. We will find from Ms. Peace later on, but  
20   Ms. Linda Moulton-Patterson?

21           BOARD MEMBER MOULTON-PATTERSON: I didn't have  
22   time to have any. No, I have none, I'm up to date.

23           BOARD CHAIR MARIN: Thank you. Ms. Mule?

24           BOARD MEMBER MULE: I'm up to date too, thank  
25   you.

1 BOARD CHAIR MARIN: Mr. Paparian?

2 BOARD MEMBER PAPARIAN: I'm up to date.

3 BOARD CHAIR MARIN: Okay. And so am I. Thank  
4 you.

5 Now go ahead.

6 MR. LEVENSON: Certainly, certainly. This is  
7 item 30, consideration of a new full solid waste  
8 facilities permit disposal facility for the Gregory  
9 Canyon Landfill, San Diego County.

10 I'd like to make a couple of introductory  
11 remarks. As we all know, this is one of the most  
12 controversial landfill permit issues ever to come before  
13 this Board. Before we get into the substance of the  
14 item, I want to acknowledge the enormous amount of time  
15 and energy that everyone has invested in this issue.  
16 This includes the project proponents, the project  
17 opponents, the Director of Environmental Health, and the  
18 LEA staff, Board members and your offices, and our Board  
19 staff. We've all been grappling with many technical and  
20 legal issues that have been raised during this permit  
21 process.

22 On staff's behalf I especially want to thank a  
23 few people. Tad Gebre-Hawariat, Ray Seamans, Suzanne  
24 Hambleton, Mark de Bie, to my right, and Michael  
25 Bledsoe, a little further to my right, for all their

1 work.

2 We've done our best to make sure that our  
3 analysis of the proposed permit and the issues raised in  
4 the written record and at the Permitting and Enforcement  
5 Committee meeting last week, that our analysis is  
6 diligent and thorough, and that our findings are  
7 consistent with and based upon the statutory and  
8 regulatory framework that the Board operates within.

9 In response to the technical issues raised in  
10 writing and at the committee last week, staff prepared,  
11 I believe it was about a twelve page handout that was  
12 distributed to Board members, and copies of which are  
13 available in the back of the room.

14 Very briefly, we did not find any information  
15 that changed our analysis and findings regarding the  
16 technical aspects of the proposed permit.

17 Mark De Bie will now provide staff's overview  
18 of the proposed permit and discuss the recent input  
19 received in writing and at the committee meeting, and  
20 then I'll wrap up with staff's recommendations.

21 Permitting and Enforcement and legal staff will  
22 be available to discuss any further questions that you  
23 may have. And the LEA, after we're done the LEA and the  
24 applicant will then provide presentations, and that will  
25 be followed by the opponents providing a presentation.



1 With that, I'll turn it to Mark.

2 MR. DE BIE: Thank you, Howard. Mark De Bie  
3 with the Permitting and Inspection Branch doing the  
4 staff presentation on behalf of Tad and others as Howard  
5 mentioned.

6 BOARD CHAIR MARIN: Mark, hold on one second.

7 MR. DE BIE: Certainly.

8 BOARD CHAIR MARIN: You all right? Okay. Go  
9 ahead.

10 MR. DE BIE: The proposed Gregory Canyon  
11 Landfill site is located in Northern San Diego County  
12 approximately two miles southwest of the community of  
13 Pala. The proposed new permit will offer the -- or  
14 allow the following:

15 The construction and operation of a class III  
16 solid waste landfill on an area of 308 acres with a 183  
17 acre disposal footprint.

18 The permitted design capacity for refuse and  
19 cover is calculated at 57.5 million cubic yards.

20 And the estimated site life is thirty years.

21 The permitted hours of operation, that's the  
22 receipt of waste at the landfill, will be six days per  
23 week, from 7:00 a.m. to 6:00 p.m. Monday through Friday,  
24 and 8:00 p.m. through 5:00 p.m. on Saturday.

25 The refuse will be accepted at the new landfill

1 at a rate of the following permitted maximums. An  
2 average of 3,200 tons per day, with a peak daily of  
3 5,000 tons per day. And a, and the permit specifies an  
4 annual cap of one million tons per year.

5 The operation of the proposed landfill is also  
6 to include recycling activities where source separated  
7 recyclable materials such as white goods, paper, and  
8 glass will be accepted.

9 Staff has indicated in the table in the agenda  
10 item on page 30-7 of the agenda item of all the  
11 requirements of the, for the standards that the Board is  
12 required to make by the Public Resources Code Section  
13 44009 have been met.

14 The LEA, as the lead agency for CEQA, prepared  
15 an environmental impact report, certified the document  
16 on February 6th, 2003, and made all the required  
17 findings, and filed a notice of determination on June  
18 2nd, 2004.

19 Also on June 2nd, 2004, Mr. Gary Erbeck, the  
20 director of the San Diego County Department of  
21 Environmental Health, approved the project and adopted a  
22 statement of overriding considerations for the five  
23 environmental effects that cannot be mitigated or  
24 substantially lessened and remain significant and  
25 unavoidable.

1           The five environmental effects are traffic  
2   circulation, air quality, ethno history and Native  
3   American interest, aesthetics, and noise.

4           In adopting the statement of overriding  
5   considerations, the LEA director cited the assistance  
6   that Gregory Canyon Landfill would provide for the  
7   fifteen years of landfill capacity for the county, and  
8   its contribution towards implementation of the draft  
9   siting element as it pertains to the jurisdiction's  
10  disposal capacity.

11          The LEA indicated that a series of new project  
12  features had been incorporated after June 2nd, 2004.  
13  And on October 8th, 2004, the director of the LEA  
14  adopted a supplemental statement of overriding  
15  considerations and filed another notice of determination  
16  with the Office of Planning and Research on October  
17  11th, 2004.

18          The supplemental statement of overriding  
19  considerations references the following benefit:

20               An enhanced liner system.

21               An offer to contribute \$1 million to Caltrans  
22  for safety improvements along SR 76 in the vicinity of  
23  the landfill.

24               The construction of the landfill project that  
25  will generate economic benefits.

1           The operation of the landfill will result in  
2 generation of significant economic benefits.

3           As well as the operation of the landfill will  
4 generate increased property taxes and sale taxes.

5           Staff have reviewed the CEQA documentation and  
6 the LEA CEQA findings and find that the final  
7 environmental impact report and the findings made  
8 pursuant to the CEQA guidelines, Section 15091, to be  
9 adequate.

10          As Howard indicated, at the time that this item  
11 was presented to the Permitting and Enforcement  
12 Committee, staff was in the process of reviewing a large  
13 amount of correspondence that had been received since  
14 the publishing of the item by the Board. And staff was,  
15 in the light of that correspondence, rereviewing the  
16 permit package and all the supporting documentation.

17          Also during the committee there were a number  
18 of questions asked by the committee members.

19          What staff has done since the committee is to  
20 summarize both the questions and concerns as well as  
21 staff responses in a table that Howard indicated was  
22 made available to the Board members last Friday,  
23 December 10th, and copies are available in the back of  
24 the room.

25          The table basically goes through what resulted

1 in approximately seventeen issues or categories of  
2 issues, and staff's response, or if the question was  
3 directed immediately to the LEA, the LEA's response.  
4 Staff facilitated the incorporation of the LEA's  
5 response.

6 Staff also contacted the LEA to query if they  
7 wanted to offer additional information beyond what staff  
8 had developed, and they indicated that they did for the  
9 most part have additional information they wanted to  
10 provide. So staff facilitated the inclusion of the  
11 LEA's response in the same table.

12 So what you have is a table that has staff's  
13 understanding of the question and concern, staff's  
14 response, and then an indication of what the LEA has  
15 responded.

16 So if there are questions about any aspects of  
17 that, staff's available to respond to those  
18 specifically, but we're not going to go through them  
19 step by step.

20 And I'll pass it back to Howard for staff's  
21 recommendation relative to the item.

22 MR. LEVENSON: Thank you, Mark. At this time  
23 staff's prepared to make the following recommendations  
24 relative to the action on the closed permit:

25 First, staff recommends that the Board find the

1 Final Environmental Impact Report and the LEA's findings  
2 made pursuant to the CEQA guidelines, Section 15091, to  
3 be adequate.

4 Second, staff recommends that if the Board  
5 finds the LEA's Statement of Overriding Considerations  
6 and the Supplemental Statement of Overriding  
7 Considerations to be adequate for the Board's use, then  
8 the Board should adopt those statements as its own.

9 In considering this, staff notes the following.

10 It's not unreasonable or unusual for a  
11 responsible agency to rely on information developed by a  
12 lead agency during the CEQA process. The Board in the  
13 past has adopted for its own use Statements of  
14 Overriding Considerations that include factors such as  
15 economic benefits.

16 Staff have reviewed the referenced and  
17 supporting information found in the Benefits Analysis  
18 which supports the lead agency Statement of Overriding  
19 Considerations and its Supplemental Statement of  
20 Overriding Considerations.

21 Given the information that we've reviewed,  
22 unless you're presented with new evidence today, staff  
23 does not see any independent basis for not accepting the  
24 analysis adopted by the LEA.

25 Staff also understands that the Board of

1 Supervisors, the County Board of Supervisors, in  
2 considering whether to place Proposition B on the  
3 ballot, considered this same information.

4 Staff, therefore, recommends that if the Board  
5 finds that the benefits from the project outweigh its  
6 significant impacts, that the Board adopt the LEA's  
7 statements as its own.

8 Third, if a Statement of Overriding, or  
9 Statements of Overriding Considerations are adopted by  
10 the Board, staff finds that the requirements for the  
11 standards that the Board is required to consider under  
12 Public Resources Code 44009 have been met and,  
13 therefore, recommends that the Board concur in the  
14 issuance of the proposed solid waste facility permit for  
15 the Gregory Canyon Landfill.

16 That ends staff's presentation. We would be  
17 happy to answer any questions you might have.

18 BOARD CHAIR MARIN: Okay. Thank you, Howard.  
19 Are there any questions of staff right now or should we  
20 have -- oh, for the record, Mr. Carl Washington is with  
21 us now, I think he entered the room about 1:30.

22 Mr. Paparian, do you have a comment or  
23 question?

24 BOARD MEMBER PAPARIAN: Yeah, I have a couple  
25 questions for the staff. Last night we were given a

1 document about a, it looks like a, it says, "Notice of  
2 Default and Election to Sell Under Deed of Trust"  
3 related to some portion of the Gregory Canyon property.

4 If there's some question of whether, you know,  
5 the property may be going towards foreclosure, does that  
6 affect our ability to issue the permit or consider the  
7 financial assurances that we would need for the  
8 facility?

9 LEGAL COUNSEL BLEDSOE: Michael Bledsoe from  
10 the legal office, Mr. Paparian.

11 No, it would not basically is the, sort of the  
12 two questions that you raise. I think we have to  
13 assume, and I'd certainly like the operator to confirm  
14 this, that whatever this problem is, to the extent it  
15 still exists, that the operator will get its financing  
16 for the property in order pretty quickly.

17 Secondly, the financial assurances issues are  
18 really separate from the operator's own financial  
19 considerations.

20 I mean the bottom line, if the Board were to  
21 ultimately concur in and the LEA issue this solid waste  
22 facilities permit, and for some reason Gregory Canyon  
23 Limited could not operate it because they lost the  
24 property, one possible result would be that a new  
25 operator would be found and have to go through the



1 appropriate procedures, making its own demonstration of  
2 financial assurances and assure the LEA that it could  
3 operate the permit in compliance with all the terms and  
4 conditions.

5 BOARD MEMBER PAPARIAN: Now this document  
6 indicates that there is likely to be a different  
7 operator, at least as I'm reading it, that the borrower  
8 and the operator of the facility appear to be two  
9 different entities.

10 LEGAL COUNSEL BLEDSOE: I don't have the  
11 document right in front of me, I thought it said Gregory  
12 Canyon Limited was the borrower.

13 BOARD MEMBER PAPARIAN: Yes, and they will  
14 receive rent under a long term lease of the project to a  
15 major waste management company.

16 LEGAL COUNSEL BLEDSOE: Well, I would suggest  
17 we raise that question.

18 BOARD CHAIR MARIN: We may have to ask that  
19 question directly of the applicants.

20 BOARD MEMBER PAPARIAN: And then it, a couple  
21 of questions of Howard. It says in here that the city  
22 of Oceanside would have no choice but to -- well I guess  
23 maybe we'll ask the Oceanside folks, maybe they're  
24 here. It says something in here about they would have  
25 no choice but to use Gregory Canyon.

1           Let me ask you, Howard. In response to our  
2 questions, you indicate, this is page three of this  
3 matrix related document at the top of it, that the staff  
4 is unaware of any evidence in the record that indicates  
5 that waste from other, from areas other than the North  
6 County area would be received at the project site.  
7 Okay.

8           Let me ask the sort of converse of that  
9 question which is, what is your understanding of really  
10 where the waste will be received if it's not received  
11 from out of the county or out of the North County? Can  
12 you delineate, you know, which localities you're  
13 expecting the waste to actually come from?

14           The reason I'm asking is that we're getting  
15 information from the localities that they aren't going  
16 to send their waste there to Gregory Canyon.

17           MR. LEVENSON: Mr. Paparian, to properly answer  
18 that, I think we would have to ask the project proponent  
19 where the waste is coming from or plans to.

20           BOARD MEMBER PAPARIAN: Then I'll do that at  
21 the time. Thank you, Madam Chair.

22           BOARD CHAIR MARIN: Thank you, Mr. Paparian.

23           Okay. The next -- let me, let me explain to  
24 you how we're going to handle this. I know that, first  
25 of all, for the benefit of the public, we have received,

1 including what went into the committee meeting, about a  
2 hundred and six public input that individually or  
3 collectively as the Board received, and those have all  
4 been ex-pated.

5 I would like to, we have received some things  
6 right now, so let me just for the record let everybody  
7 know.

8 We received, it looked like a series of  
9 newspaper articles, not just one, from the "North County  
10 Times," December 12th, Sunday.

11 We have received the City of Oceanside dated  
12 December 9. I believe there might be some people from  
13 Oceanside here today. They are, okay. So we will allow  
14 you to speak during the time, but we have received that  
15 for the record.

16 The County of San Diego, Department of  
17 Environmental Health, Local Enforcement Agency, "Gregory  
18 Canyon Landfill Issues Resolved During the Permitting  
19 Process" document.

20 And also San Diego County Solid Waste Local  
21 Enforcement Agency "Response to Recent Public Comments  
22 Regarding the Proposed Gregory Canyon Landfill Permit,"  
23 December, 2004, Board item 30th. And I'm sure the LEA  
24 will be referencing these particular items.

25 We have received quite a few people that want

1 to speak today. And the way that we're going to go  
2 about this, first, the LEA will come in and make a  
3 presentation, followed by the proponents or the  
4 applicant rather, followed then by a representative from  
5 Palo Band, and then a representative from River Watch.

6 We will hear your presentations, we have asked  
7 you to be as concise and to the point as possible.  
8 After your presentation it is possible that some of the  
9 members of the Board may have some questions, and we  
10 will give you time to do that. But your initial  
11 presentation we will, we will wait until you finish with  
12 your initial presentation and then ask you questions,  
13 and it will be done in that order.

14 After that then we will take public comments  
15 from people that have not addressed the Board. Okay.

16 Howard, we're going to ask the LEA to come  
17 forward, and Gary.

18 MR. ERBECK: Good afternoon, my name is Gary  
19 Erbeck, I'm the director of the County of San Diego's  
20 Department of Environmental Health. I am also the  
21 director of the LEA. And before we get started I'd just  
22 like to briefly introduce the team I have with me today.  
23 And I have Jack Miller sitting here. Jack is the  
24 manager of the LEA.

25 Next to Jack is Karry McNeil, she's the

1 supervising environmental specialist for the LEA.

2 And here we have Pam Raptus, she is the project  
3 specialist, environmental health specialist on this  
4 project.

5 And I also have with me Rod Lorang, he is my  
6 LEA legal counsel from county counsel's office, and Mr.  
7 Mark Mead who is my CEQA legal counsel, also from county  
8 counsel.

9 So I'd like to have Mr. Jack Miller, who's the  
10 manager of the LEA, start the presentation.

11 BOARD CHAIR MARIN: Mr. Miller.

12 MR. MILLER: Madam Chair and Board members,  
13 thank you for your time here. The project started ten  
14 years ago with Proposition C, was adopted by 68 percent  
15 of the San Diego County voters. It amended the general  
16 plan and zoning ordinance. It requires all other  
17 permits other than land use permits, and it requires the  
18 project to go through the CEQA process. Now as it turns  
19 out, because there is no major use permit, the LEA  
20 became the lead agency as well on this project. It also  
21 imposes specific mitigation measures on the landfill  
22 that have been incorporated into the EIR and into the  
23 solid waste facility permit that you have before you.

24 Now proposition B, you have mentioned  
25 Proposition B was a ballot measure heard last month, and

1 its intent was to turn over, overturn Proposition C, and  
2 it was defeated by 63 percent of the voters in San Diego  
3 County, which means that Proposition C stays in effect.

4 Now, it's important to note that we talk about  
5 public participation, and I'm going to talk a little bit  
6 more about that. This is a true form of public  
7 comment. Both of these initiatives were passed by more  
8 than 60 percent of the voters in San Diego County.

9 Now you have a handout, you mentioned a handout  
10 in front of you. To save time for this hearing we have  
11 delineated the process by which we have gone through the  
12 EIR and the permitting process. I'm not going to spend  
13 the time going through each version of the EIR. What  
14 I'd like to do is summarize what we have done in  
15 particular with a focus on public participation.

16 There were three drafts of the environmental  
17 impact report. We had the same distribution and  
18 advertisement system for all three. We put 'em in seven  
19 locations, we advertised it in the Union Tribune; the  
20 largest paper in the county; we made a copy available at  
21 Print World in Escondido near the landfill; and in the  
22 last two versions of the EIR we had drafts on the  
23 Internet and CD.

24 We held, the comment, the normal comment period  
25 for EIR documents is 45 days. Two of the, two of the

1 versions, the first two more complex versions to review,  
2 the more intensive versions were, exceeded the 45 day  
3 period, one was 90 days and one was 75 days.

4 We had two public hearings, both in Escondido,  
5 both in excess of three hours, and over a hundred people  
6 testified at each of those hearings.

7 We had, we had the EIRs, in total, open for  
8 public comment for 210 days. We received nearly 600  
9 comments, letters from individuals and agencies  
10 collectively on all the versions. And the LEA and  
11 county counsel spent over 2,000 hours on the EIR.

12 The EIR, as Mark De Bie had indicated, was  
13 certified by the LEA on February 6, 2003, and your staff  
14 in the report concurs with our findings that are  
15 sufficient in the report and supported by the record.

16 Now permit development, I think it's a key  
17 issue for discussion here on how we developed the  
18 permit. First and foremost is protecting public health  
19 and safety, that's the first goal.

20 Secondly, because we had these dual roles of  
21 lead agency and permitting agency, we needed to dovetail  
22 those together in a permit document. We looked at, of  
23 course, consistency of the Public Resource Code  
24 entitled, Titles 14 and 27.

25 We worked closely with other regulatory

1 agencies to make sure their permitting needs were  
2 incorporated into the permit.

3 We hired CH2M HILL to make sure that we've  
4 covered all our bases, to make sure that the joint  
5 technical document, that Proposition C mitigation  
6 measures, the EIR, and all the other requirements are  
7 included in there.

8 We, our permit specialist, Pam Raptus, did an  
9 excellent job organizing the permit by phases so at a  
10 later time we get to, we'll be managing these mitigation  
11 measures and enforcing them, we'll have a document that  
12 we can use and it will be a far superior document to  
13 just listing it otherwise.

14 We have 243 site specific conditions in the  
15 permit. 188 of those are mitigation measures from the  
16 EIR, and it was important that we put those measures  
17 into the permit so that we, they were enforceable.

18 We had issues that came up during the permit,  
19 and that issue paper that you have in front of you are  
20 some of the issues that we dealt with and we'd  
21 resolved. And the purpose of the issue document for  
22 this purpose today is so we didn't need to cover the  
23 same issues that we had already resolved.

24 But we listened to all those issues. Those  
25 were issues that we needed to address in our permit. If



1 we needed to change it, we changed it. We also worked  
2 with Board staff very closely, we listened to their  
3 comments and concerns and made changes to the permit.

4 We completed the permit on June 2nd, 2004, and  
5 submitted it to Waste Board staff. And as it has been  
6 concurred here, the Board staff agrees that there are no  
7 technical or regulatory issues that remain.

8 We spent, between county counsel and LEA, over  
9 1,200 hours on permit development, and over 3,000 hours  
10 on permit development and on the EIR.

11 These are the, I'm not going to go through all  
12 these, these are the other permitting agencies. The  
13 reason I bring this up is just to mention to you, since  
14 this is the first permit with your concurrence today  
15 that will be approved by, on the Gregory Canyon  
16 Landfill, all the other permits that are approved by  
17 these agencies need to be reviewed by the LEA and modify  
18 the JTD and permit as necessary.

19 Implementation is a key factor. And I  
20 mentioned how we plan on implementing it by creating a  
21 permit that means something to us. It's organized by  
22 pre-construction, construction, and operation phases.  
23 So that helps us manage it.

24 We also recognize there are a lot of specialty  
25 areas in the permit, biologists, archaeologists. We

1 have expertise, but we recognize that we need to add to  
2 that expertise, so we're going to hire consultants to  
3 assist us in reviewing those reports that Gregory Canyon  
4 will be preparing.

5 We'll have meetings with regulatory agencies to  
6 make sure that their needs are being met, and there's a  
7 lot of coordination and discussion and everybody knows  
8 what's going on.

9 The same with the operator, we want to meet  
10 with the operator on a regular basis. We want to know  
11 what's going on, are there problems, are there issues,  
12 and try to head off problems before they occur.

13 We feel that we have prepared an excellent  
14 permit for this project, and we're prepared to take it  
15 to the next phase which is implementation.

16 Thank you. I'd like to turn over the  
17 presentation at this time to Karry McNeil.

18 BOARD CHAIR MARIN: Okay, Karry.

19 MS. MCNEIL: I'm also passing out this document  
20 so you will have a copy of it to see. I'm Karry McNeil,  
21 I'm with the San Diego County LEA and I'm the supervisor  
22 of the LEA. And I'm going to address the Benefits  
23 Analysis and how we managed the Benefits Analysis so  
24 that the director could make his decision.

25 The EIR concluded that the proposed landfill

1 would have a significant and inimical environmental  
2 effects. The proposed landfill permit would require the  
3 adoption of a Statement of Overriding Considerations.

4 To provide the support for a Statement of  
5 Overriding Considerations, the project applicant  
6 prepared a Benefits Analysis.

7 The applicant submitted several drafts of the  
8 Benefits Analysis to the LEA which county departments  
9 reviewed and provided comment.

10 The final Benefits Analysis was received on  
11 October 23. This document discussed the benefits that  
12 the applicant believed the proposed landfill would  
13 provide to the people of San Diego.

14 The types of benefits analyzed included  
15 permitted capacity, economic benefits, increase in tax  
16 revenue, consistency with the promotion of state and  
17 county policies, among other things.

18 The LEA wanted to be as transparent as we  
19 possibly could in this process. Even though there are  
20 no requirements for public participation in the Benefits  
21 Analysis and the Statement of Overriding Considerations,  
22 the LEA decided to continue a high level of public  
23 participation, practice the CEQA process with the  
24 Benefits Analysis.

25 The final Benefits Analysis was posted on our

1 website. We contacted interested parties and let them  
2 know that it was there, and invited comments on the  
3 website.

4 The comments were received and they were  
5 posted.

6 The LEA wrote a report on the Benefits  
7 Analysis, and included information from the comments.  
8 The LEA then posted the staff report on the website  
9 along with the comments that we had received.

10 We again invited comments and posted these  
11 comments on the website.

12 And then we got some rebuttal comments, and we  
13 also posted these on our website.

14 At that time the LEA packaged all the  
15 information that we had received, the Benefits Analysis,  
16 the public comments, the LEA staff report, both rounds  
17 of subsequent comments, and the rebuttal comment. Oops,  
18 wrong one.

19 The director has been involved since 1999 when  
20 the Draft EIR was put out. He participated in the CEQA  
21 hearings, he reviewed and certified the Final EIR, he  
22 had copies of the 1996 siting element and the draft  
23 siting element.

24 This is where the table that I passed out comes  
25 in. This is a model of the annual permitted capacity

1 for the 2003 draft siting element. It assumes a 50  
2 percent diversion rate as currently required by this  
3 Board. It portrays an estimate of solid waste  
4 generation and permitted disposal in the county of San  
5 Diego. The basis for this graph is this table.

6 The yellow highlights where indicated are where  
7 the county no longer has excess permitted capacity.  
8 This is from the draft siting element.

9 The orange line -- where is that? Here we go.  
10 This orange line right here portrays the projected total  
11 disposal needs with 50 percent diversion rate.

12 The lower line, this pink line with squares is  
13 an in county permitted capacity as it currently exists.

14 In 2007, right in here, the county no longer  
15 has excess permitted capacity. In 2011, the line drops  
16 based on the planned closure of the Miramar landfill.

17 The blue line with diamonds shows a  
18 contribution of permitted capacity for the Gregory  
19 Canyon Landfill.

20 The drop, again -- whoops, there it is. okay,  
21 I don't see it. There it is. This drop again is the  
22 planned Miramar Landfill closure.

23 In 2011 the county no longer has excess  
24 permitted capacity. And again, that corresponds to the  
25 yellow highlights on your table.

1           The green line with triangles demonstrates the  
2   contribution of permitted capacity of the planned  
3   increase in annual permitted capacity of Sycamore  
4   Landfill in two phases, this phase and this phase.

5           In 2016 the county no longer has excess  
6   permitted capacity.

7           The top line with, the blue with the X's  
8   demonstrates the combined contribution of Gregory Canyon  
9   and Sycamore Canyon which demonstrates permitted  
10   capacity until the year 2020, which meets our county's  
11   goal.

12           At this point I'd like to introduce Gary  
13   Erbeck, the Director of Environmental Health.

14           BOARD CHAIR MARIN: Thank you. Gary.

15           MR. ERBECK: Thank you, Chairwoman and members  
16   of the Board. What I want to do is briefly talk with  
17   you about how I thought about the SOC, the Supplemental  
18   SOC, and the types of information that I considered in  
19   making that decision.

20           As is pointed out, I am the director of this  
21   LEA. I have been a practitioner of public health for  
22   over 35 years in various sorts of venues. I have been a  
23   Director of Environmental Health for over fourteen  
24   years, and I have been an LEA director for about ten  
25   years.

1           As was indicated, I've been with this project  
2 since about 1998, late 1998, early 1999 when I first  
3 came to the County of San Diego as the new Director of  
4 Environmental Health.

5           I've taken this project very seriously from the  
6 minute I got here. Actually, I was aware of this  
7 project when I was a director of Santa Barbara County's  
8 Department of Environmental Health because we directors  
9 talk with one another, and I knew what was going on with  
10 this proposal for a landfill in San Diego County.

11           So I had a lot of discussions, I had a lot of  
12 time to think about it, and I think that for me this  
13 process has taken more than one look or one bite at the  
14 apple. I've had to look at a lot of data, a lot of  
15 information, talk to a lot of different people about  
16 what they think, about, you know, waste management, what  
17 they think about permitted capacity, what they think  
18 about how the region ought to handle its waste.

19           And for me, the most unusual part about this  
20 project was that we were the lead agency for CEQA. And  
21 as was pointed out to you, that was because land use had  
22 already been determined by a vote of the people of the  
23 county of San Diego. So that had already, the land use  
24 question had already been taken care of, so here we were  
25 as thrust into the role of the lead CEQA agency.

1 I've been involved in a lot of land use  
2 projects where we have been the responsible agency, and  
3 I think that, well I know that this is my first time as  
4 being a lead agency.

5 Having that background in public health, I was  
6 very concerned, very interested that the public have an  
7 opportunity to participate, not only in the decision-  
8 making process, but able to provide me with feedback,  
9 information, any data points that they thought might be  
10 relevant to me to make a decision that I knew I had to  
11 make.

12 There actually were two public meetings that we  
13 held prior to the meetings on the Draft EIR. And what I  
14 did with that was I hired a facilitator. I brought  
15 subject matter experts out into the community. We met  
16 in the community and we talked about CEQA, what that was  
17 about, how it worked. We talked about some of the  
18 elements that are typically examined in a CEQA document,  
19 in the CEQA process. We brought biologists out. We  
20 brought anthropologists out, we brought a lot of subject  
21 matter experts out to talk to people about CEQA. And it  
22 wasn't, the project was there, but it was more for me to  
23 make sure that people understood what this process was  
24 and how it worked.

25 When I first received the benefits package as



1 was described to you, it did contain the Benefit  
2 Analysis, it contained the staff report, it contained  
3 all those comments. Also by that time I had had the  
4 privilege of having two public, of chairing two public  
5 meetings within the community, and as you heard from  
6 over 200 people from all walks of life about what they  
7 thought was bad about Gregory Canyon, what they thought  
8 was good about Gregory Canyon, what benefits they  
9 thought it might bring to the region and, conversely,  
10 how they thought it might ruin the region.

11 So I listened to all of that. I considered all  
12 of that documentation, the written documentation, the  
13 oral testimony that I heard, and moreover, what was most  
14 striking to me in the Benefits Analysis and my review of  
15 that data was that chart that's here and that chart  
16 that's on your screen about the permitted disposal  
17 capacity remaining in the county of San Diego.

18 And why that is significant and why that is the  
19 number that I looked at and why that is the data that I  
20 looked at is because I cannot go upon what might be. I  
21 can't project the future as to what actually might  
22 happen with Sycamore Canyon. Will it be approved for  
23 the amount of expansion that it wants? Will it be  
24 approved for something less than that? Will it not be  
25 approved for any expansion at all? I don't know.

1           So what I do know is what the permitted  
2 capacity remaining in the county is, and that's pretty  
3 much my baseline for starting to review information and  
4 to analyze data that was presented to me.

5           I did look at a range of disposal scenarios,  
6 different types of models. I was also presented with a  
7 wide range of diversion modeling, anywhere from 50  
8 percent to 55 percent to 65 percent to 75 percent, and  
9 what those models would produce in terms of extending  
10 the permitted landfill capacity. I did consider that.

11           But in the final analysis I had to go with what  
12 we had. And what we have right now is something just  
13 under 50 percent, I believe it's around 48 percent.

14           But I was willing to say that we could maintain  
15 that diversion rate and that's why I went with that  
16 chart.

17           I also asked my staff to bring me the 1996  
18 CIWMP and the siting element so that I could look at  
19 that. I read that. And I read the entire draft siting  
20 element, the new draft siting element that has not been  
21 adopted yet.

22           I sat down with the authors of those documents  
23 and I asked them what kinds of reference material they  
24 utilized to come up with their conclusions and their  
25 data and their analysis of that data.

1 I sat down with my legal team and I asked them  
2 about this process in terms of the Statement of  
3 Overriding Considerations and what might I consider in  
4 making that, in making that decision.

5 And basically it turns out that it's, as you  
6 know, it is a highly discretionary action. It is  
7 basically what I think, and I used my best judgment to  
8 make that decision.

9 I looked at the impacts. And as you know,  
10 there were five unmitigable impacts associated with this  
11 project.

12 I looked at benefits that were described in the  
13 Benefit Analysis. I looked at the data behind that.

14 And based upon that I was able to say to say to  
15 say, you know, it looks like I might have a potential to  
16 override, make a Statement of Overriding Considerations  
17 for some of these unmitigated impacts.

18 So I asked my staff, the team that I introduced  
19 to you, to go back and to start to prepare work on the  
20 permit. I then sat down with my staff and we talked  
21 about my thoughts about what these benefits and what the  
22 benefits via the impacts might be, and how I might  
23 articulate that in a Statement of Overriding  
24 Considerations.

25 But I have to say that, for me, the most

1 important factor in my decision was the graph that you  
2 see and the chart that you see behind you. That is the  
3 remaining permitted capacity in the county of San  
4 Diego. We need to be able to handle our trash in a  
5 responsible manner. We need to look ahead and figure  
6 out ways that make sense and ways that are known to  
7 work.

8           When the formal decision to issue the SOC was  
9 brought forward to me, I looked again at my prior work,  
10 and I looked again at the Benefit Analysis. I reviewed  
11 my supporting materials. I reviewed the data sets that  
12 I had looked at, and I looked at the sections of the EIR  
13 that might be relevant to my analysis and my  
14 deliberations.

15           And I listened, and I listened to and replayed  
16 in my mind all of the comments that I had heard from  
17 everybody, all of the comments that I had read, all of  
18 the comments I had read, all the rebuttals that I had  
19 read, all of the rebuttals to those rebuttals that I had  
20 read as well. And what I, and then I looked at those  
21 five significant impacts. And basically I looked at  
22 those and I considered the nature of those impacts v.  
23 the need for landfill capacity in the county.

24           I'd just briefly like to run through those five  
25 impacts just to give you the benefit of how I saw those

1 and what made me do what I did.

2 In terms of the traffic impact, now that was  
3 described in the EIR as cumulatively significant and  
4 unmitigable impacts on State Route 76 if State Route 76  
5 is not widened to four lanes as currently contemplated  
6 in the county's general plan by year 2020.

7 When I read that and when I looked at that, it  
8 became pretty clear to me that the landfill is a small  
9 part of this cumulative picture of the traffic impacts  
10 on State Route 76. Traffic problems on State Route 76  
11 will exist with or without the landfill unless State  
12 Route 76 is widened to accommodate the additional  
13 traffic.

14 Also, the applicant had committed to do  
15 additional mitigation and fair share contributions so  
16 that State Route 76 could be widened. So I took into  
17 account in my decision these facts on traffic. The  
18 impact is not, was not fundamentally caused by the  
19 project, per se. It could be mitigated in the broader  
20 context of everything else that's going on out there.  
21 It is planned to be mitigated, and I know that the  
22 applicant will do their part in that mitigation.

23 On the noise impact, noise was described as a  
24 significant and unmitigable noise impact for both the  
25 project, cumulative and cumulatively to sensitive

1 receptors, wildlife habitat, and residents located on  
2 State Route 76 between I-15 and the western boundary of  
3 the property.

4           This impact for me had two parts. There's an  
5 impact to the residents which is significant, but it  
6 could be mitigated if the residents would agree to a  
7 sound wall. And the impact is not entirely due to the  
8 landfill, and it could be mitigated with cooperation  
9 from the affected residences.

10           I did confirm that the noise impacts to the  
11 sensor receptors and habitats would be mitigated to the  
12 extent feasible as described in the environmental  
13 document. My decision took into account that these,  
14 that some of these impacts would remain significant.

15           The air impact, that was described as  
16 significant and unmitigable emissions of PM 10 for a  
17 project construction operation typically resolving the  
18 air issues associated with these operations have been  
19 the responsibility of our Air Pollution Control  
20 District, and that's who I will look to to work on that.

21           But for my decision, I did consider the air  
22 impacts to be significant as described in the EIR.

23           The ethno history and Native American history  
24 impact was described as significant and unmitigable  
25 impacts to Gregory Mountain and Medicine Rock based upon

1 the subjective judgment of the Luiseno people.

2 When I looked at the EIR, the EIR did determine  
3 that the objective impacts to this had been mitigated to  
4 a level of insignificance, and this had been done by  
5 providing access to those sites and also paying to have  
6 that access created.

7 Work on attempting to develop further  
8 mitigation measures for the use of these cultural  
9 resources stopped when the Luiseno people refused to  
10 meet and discuss any further mitigation efforts.

11 But I consider these impacts to be significant  
12 as stated in the EIR.

13 Aesthetics. It was described in the EIR as  
14 significant and unmitigable visual impact caused by the  
15 landfill footprint. Now, I understand and I saw the  
16 slide, the PowerPoint slide from the Pala representative  
17 at the P&E Committee last week that did show the  
18 landfill when it was built out and what that visually  
19 would look like. However, it was for a filled in  
20 landfill. However, it was prior to completion of the  
21 post closure mitigation as required.

22 There are after mitigation pictures of that  
23 same, from that same view in the EIR which are less  
24 dramatic than the one that you saw.

25 The view impact, I believe, could be further

1 mitigated if Caltrans will consent to planting screening  
2 vegetation in specific locations along the State Route  
3 76 right away. Until that happens, potential mitigation  
4 could not be considered as addressing this impact. The  
5 simulated views with this additional screening are also  
6 shown in the EIR.

7 I have, I still believe that the view impacts  
8 would be significant, and I considered the view impacts  
9 to be significant in my decision-making process.

10 So all in all, I considered the nature of these  
11 impacts in arriving at my decision, and I weighed those  
12 impacts against a consideration of economic, social,  
13 environmental, and other benefits.

14 I considered some initial Statement of  
15 Overriding Considerations, and I rejected others.

16 Initially I did not include an economic benefit  
17 in my Statement of Overriding Considerations because I  
18 believe that you can only consider in county benefits,  
19 and I couldn't tease out the in county benefits from the  
20 out of county benefits or the regional benefits, so I  
21 did not include that economic benefit in my initial  
22 Statement of Overriding Concerns.

23 In the vehicle miles traveled. Looking at  
24 that, and there was extensive discussion about vehicle  
25 miles traveled and what would happen to those vehicle



1 miles in terms of where they would go, where they would  
2 come from if this project would go into effect. And the  
3 applicant, in fact, suggested in the Benefit Analysis  
4 that the vehicle miles traveled would be a significant  
5 impact, but would be a beneficial aspect of this  
6 project.

7 But, you know, I sort of said, well my common  
8 sense tells me that trash is going to go where it's the  
9 cheapest. You can't dictate where trash is going to end  
10 up, it's going to end up where it makes the most  
11 economic sense for it to be.

12 So I did not -- and I thought that the analysis  
13 of the vehicle miles traveled was rather complex, I  
14 just, I couldn't use that, so I didn't use that in my  
15 Initial Statement of Overriding Considerations.

16 Now, the Supplemental Statement of Overriding  
17 Considerations was the next step. Now, this occurred  
18 because there with were a series of new project features  
19 that were incorporated after my Initial Statement of  
20 Overriding Considerations was adopted. And these  
21 features did incorporate some additional benefits.

22 However, I have to tell you that I was  
23 initially reluctant to even consider doing a  
24 Supplemental SOC. I thought, you know, I went through  
25 it, I just described to you how I approached this, and I

1 said I think that's enough, and I shouldn't really need  
2 to do Supplemental SOC.

3           However, again, I did consult with my legal  
4 team, and they decided that while it wasn't necessary to  
5 do the Supplemental SOC, I should address these  
6 additional benefits as prescribed and described in the  
7 CEQA process so everyone could see them.

8           Again, I did not include all of these  
9 additional features in my Supplemental SOC. For  
10 instance, I did not include the traffic light at the  
11 entrance, I figure that is something that they ought to  
12 do anyway and not, not to be counted as a mitigation.

13           Funds for monitoring the liner construction and  
14 installation, I didn't consider that as a mitigation  
15 because they ought to do that anyway.

16           I did not consider the agreement with the San  
17 Luis Rey Water, Municipal Water District as something of  
18 a mitigation, I considered that to be a contract, an  
19 agreement between two private parties about how to best  
20 protect the water resources in that area, so that wasn't  
21 part of it.

22           However, I did accept the notion of an enhanced  
23 liner design. And, as you know, that particular liner  
24 design has not been used anywhere in a Class III  
25 landfill in the State of California. And it was

1 intriguing to me about the thought of about, well what  
2 if this liner system as described could provide a new  
3 state minimum standard for landfill liners? So I  
4 decided that that ought to be a part of the project  
5 mitigations and it also ought to be a part of the permit  
6 description.

7 I also accepted the \$1 million irrevocable  
8 offer to Caltrans by the applicant for safety  
9 improvements along State Route 76 to hasten the widening  
10 of that traffic corridor.

11 On the economic benefits, I did include  
12 economic benefits in the Supplemental SOC. And I did  
13 that because I found out that you can actually include  
14 economic benefits on a regional basis outside the  
15 county, you do not have to just consider in county  
16 benefits. So I found that the total economic benefits  
17 of this project as described were significant.

18 In closing, I'd just like to leave you with a  
19 couple of thoughts that I've been thinking about. And  
20 we are the local enforcement agency, we are certified by  
21 your Board to carry out and enforce certain regulations  
22 relative to the operation and the permitting of  
23 landfills.

24 We don't do the CIWMP for the county, we don't  
25 prepare the siting elements. I can't build landfills or

1 require expansions. For instance, if I was to look at  
2 that chart and say, you know what I need to do here is I  
3 need to increase my rate of diversion to 75 percent or  
4 65 percent, if I could wave my hand and do that, I can't  
5 do that, that's not within my power. I can't cause  
6 landfills to be built. I can't do anything about the  
7 diversion rates in the county of San Diego.

8           We're not the LEA for Miramar and Sycamore  
9 landfills. Miramar, I know they're trying to work out  
10 something with the federal government to expand, but  
11 that chart clearly shows if that's not successful what  
12 happens to the landfill capacity in my county.

13           Sycamore Canyon, again I don't know what's  
14 going to happen with that proposal to expand that.  
15 True, it has potential to be significant, but I don't  
16 know how the community is going to react to expanding  
17 that landfill in their midst. They may say yes, they  
18 may say no, they may say not this much but that much, I  
19 just don't know. Again, I work with the data that's in  
20 front of me.

21           I can only decide to issue permits for proposed  
22 facilities and revised permits for existing facilities,  
23 that's all the LEA does.

24           I would also like to note the good work, and as  
25 I think correct decisions on this project. This has

1 been a diligent effort on the part of your staff, on the  
2 part of my staff, to get you a project that I think is a  
3 good project.

4 I think that I have carefully considered the  
5 overriding considerations. I think that San Diego  
6 County needs more landfill capacity, it's clear to me, I  
7 hope it's clear to you. There are no permit issues,  
8 there are no CEQA issues. We've had extensive public  
9 input on CEQA and during the CEQA process. During the  
10 permit drafting we've had two county-wide elections on  
11 this project, both have been approved.

12 I believe that your Board should concur in the  
13 proposed permits, adopt the CEQA statement and the  
14 Statement of Overriding Considerations.

15 Thank you.

16 BOARD CHAIR MARIN: Thank you, Gary.

17 MR. ERBECK: I would like to now introduce Mr.  
18 Mark Mead, he was my CEQA legal counsel on this project.

19 MR. MEAD: Chairwoman Marin, members of the  
20 Board, as Mr. Erbeck said, my name is Mark Mead, I'm a  
21 Senior Deputy County Counsel with the County of San  
22 Diego.

23 During the past four years I advised the LEA on  
24 CEQA issues related to the Gregory Canyon project.  
25 During that period I spent almost nine hundred hours

1 working with the LEA on this project, I spent the bulk  
2 of those hours working on CEQA related issues.

3 The LEA's actions on the Gregory Canyon project  
4 fully comply with CEQA, and your counsel agrees with  
5 this conclusion. However, I think it's important for  
6 you to understand that in several instances the LEA went  
7 well beyond what CEQA requires.

8 One such example is with the Statement of  
9 Overriding Considerations. As you know, CEQA gives lead  
10 agencies broad discretion in determining whether a  
11 project's benefits outweigh the project's unmitigated  
12 impacts. CEQA does not require a lead agency to involve  
13 the public in the process leading up to the Statement of  
14 Overriding Considerations.

15 However, as Karry McNeil explained, the LEA  
16 here posted the Benefits Analysis on its website and  
17 invited comments from the public. The LEA then took  
18 those comments, posted them on its website, and again  
19 invited the public to submit rebuttal comments. The LEA  
20 prepared and posted on its website a staff report  
21 analyzing the Benefits Analysis, and again invited  
22 public comment.

23 From my experience it's very unusual for a lead  
24 agency to include this type of public involvement in the  
25 process leading to a Statement of Overriding

1 Considerations.

2           As Mr. Erbeck explained, he then took all of  
3 this information and more, and considered it very  
4 carefully in determining whether the project's benefits  
5 outweigh the unmitigated impacts. He did not take this  
6 decision lightly, he did not make this decision quickly,  
7 and more importantly, he was not concerned about  
8 pleasing any particular person, organization, or group,  
9 or displeasing any particular person, organization, or  
10 group. And the result is a Statement of Overriding  
11 Considerations that your staff agrees complies with  
12 CEQA.

13           The last speaker for the LEA today is Rod  
14 Lorang also from the county counsel's office.

15           BOARD CHAIR MARIN: Thank you. Mr. Lorang.

16           MR. LORANG: Madam Chair, members of the Board,  
17 what I'd like to do is just very quickly address a few  
18 of the comments that the public filed before the P&E  
19 Committee hearing meeting last week. You have a  
20 submission on this as well, and I'll be available for  
21 questions on what I don't address now.

22           The commenter suggested that the permit itself  
23 contains a limitation on the operator's liability for  
24 groundwater contamination. That's a misinterpretation  
25 of the permit. The permit doesn't limit liability under

1 state law in any way, what the permit does is add  
2 liability enforceable under the permit for potential  
3 damage to private water that is stored in that aquifer.  
4 Any damage to the waters of the state is completely  
5 unaffected by the permit.

6           Moreover, the permit's standard for liability  
7 is strict liability for damage. This is not going to be  
8 a tort case if it happens where the owner of that water  
9 would have to sue and find their own remedy, the permit  
10 allows the LEA to assist in rectifying that situation.  
11 So it's an additional protection, not a reduction in  
12 protection.

13           A commenter also said that our application that  
14 we received was not complete and correct. Our  
15 submission is not complete and correct because it  
16 doesn't include all the requirements of all the other  
17 agencies that have to issue permits.

18           This is also incorrect under state law. We're  
19 obliged under the permit streamlining act to act  
20 promptly on applications that we receive for permits to  
21 be issued by us.

22           Moreover, the Public Resources Code divides  
23 responsibility for a lot of the issues of concern here  
24 between the LEA and Waste Board as a team, and the  
25 Regional Water Board. We don't have the opportunity



1 with the statutory deadlines that we face, the statutory  
2 deadlines that you face to sit back and say we'd rather  
3 go last, we have to act.

4 Finally, the comment was made that the  
5 submission that the LEA made to you was not complete  
6 because it did not include the public comments that the  
7 LEA had received.

8 That comment has merit, but that problem has  
9 been corrected. We have made another submission to you  
10 that includes all of the public comments that we did  
11 receive on a pending application.

12 Moreover, we checked with staff, and in  
13 virtually every case those comments had already been  
14 submitted directly to your Board by the people who were  
15 making the comments.

16 Thank you very much.

17 BOARD CHAIR MARIN: Let's see. Are there any  
18 questions for the LEA right now or would -- okay, let's  
19 see.

20 Mr. Paparian.

21 BOARD MEMBER PAPARIAN: Yeah, could we go back  
22 to the chart of capacity that was up there for quite a  
23 while? Yeah, I just want to make sure I understand this  
24 a little bit.

25 The green line is without Gregory, right?

1 MS. MCNEIL: Correct, this orange line --

2 BOARD MEMBER PAPARIAN: Or orange line.

3 MS. MCNEIL: -- is the San Diego County total  
4 disposal with the 50 percent diversion rate.

5 BOARD MEMBER PAPARIAN: What I'm curious about  
6 is that from 2005 to 2011, as I'm looking at this, it  
7 looks like the disposal in county will go up by 25  
8 percent in that fairly short time period at a time when  
9 we're encouraging a lot more recycling and diversion.

10 So is your population going to go up by like  
11 30, 40, 50 percent in that time period to account for  
12 that? How do we, how does that happen?

13 MS. MCNEIL: This is a model, and they  
14 projected that this would be the growth based on the  
15 past growth since 1995 through 2001. And so this is a  
16 computer generated model based on those prior years and  
17 what they are predicting based on past growth based on  
18 past disposal records that this would occur during this  
19 timeframe.

20 BOARD MEMBER PAPARIAN: I know there are folks  
21 who look at like population increase projections, what  
22 this would indicate to me is you're going to have a huge  
23 population explosion in San Diego.

24 MS. MCNEIL: We have been having a huge  
25 population explosion in San Diego.

1 BOARD MEMBER PAPARIAN: 30, 40 percent in a six  
2 year period?

3 MS. MCNEIL: I cannot answer that. The  
4 Department of Public Works is the one that put this  
5 model together, this is from the draft siting element,  
6 and this is their model based on their past history and  
7 what they feel the total disposal will be with the 50  
8 percent diversion rate.

9 BOARD MEMBER PAPARIAN: Okay, it's just again  
10 intuitively there's a problem there in that time period  
11 in basically the slope of the line.

12 Let me ask another question. This morning we  
13 heard from some folks from a company called Enviropel  
14 who are planning to build a facility in the San Diego  
15 area that would take upwards of a million tons a year.

16 MS. MCNEIL: Of green waste and biowaste.

17 BOARD MEMBER PAPARIAN: And possibly other  
18 waste.

19 MS. MCNEIL: Yeah, we tried to talk to  
20 Enviropel -- if you want to go on with your question  
21 then I'll answer it.

22 BOARD MEMBER PAPARIAN: So if they were, if  
23 they were successful as I'm looking at it they would  
24 take you up to that upper line without Gregory if they  
25 were successful.

1 MS. MCNEIL: The, the -- okay. We had an  
2 appointment with Enviropel, Enviropel prior to  
3 Proposition B being voted on. And they canceled the  
4 appointment at the, fifteen minutes before the  
5 appointment. I had state staff there, I had our staff  
6 there, I had legal counsel there, they canceled the  
7 meeting. They did not call to apologize, they just  
8 canceled it and that was it.

9 Now, we did go on the Enviropel website and we  
10 looked at their proposals, we talked to the Department  
11 of Planning and Land Use, we talked to our Air Pollution  
12 Control District folks.

13 Yes, this project, we would welcome this  
14 project should it come to pass, however at this point  
15 all we have is a website. We have some discussions, we  
16 have some ideas, the transformation technology is still  
17 being looked at with your Board.

18 I've seen a memo that says that the diversion  
19 credits wouldn't go into effect with something like  
20 this, I'm not entirely certain if that would count for  
21 diversion.

22 We don't have a waste stream study. We do not  
23 know where they would get their waste to use in this  
24 project. There is just a lot of questions with  
25 Enviropel, a lot of questions. And we have no answers

1 yet.

2 BOARD MEMBER PAPARIAN: So if they -- they're  
3 in the back of the room.

4 MS. MCNEIL: Good.

5 BOARD MEMBER PAPARIAN: I'm sure they'd be  
6 happy to set up an appointment with you.

7 MS. MCNEIL: Oh, I'd love that.

8 BOARD MEMBER PAPARIAN: But if they were  
9 successful that would bring you up to the upper line.

10 MS. MCNEIL: We have a discussion in our  
11 Department of Planning and Land Use that says that they  
12 do need to meet some CEQA requirements. Again, it's a  
13 project that's out there. They apparently have a  
14 contract with San Diego Gas and Electric to purchase,  
15 but I haven't seen a contract, I haven't seen anything,  
16 we haven't even had an application.

17 So I cannot tell you when, how, where, what, we  
18 don't know. And so, and they came well after all this  
19 process had been done, they came well after the permit  
20 had been -- they did comment on the Benefits Analysis in  
21 the form of a letter which the director got, but again  
22 it's all concepts, it's all thoughts. We don't have --

23 BOARD CHAIR MARIN: And I guess in their best  
24 estimates from their letter that they submitted, it  
25 won't even come up to fruition about 2010.

1 BOARD MEMBER PAPARIAN: Which would be about  
2 the right time period to get to the upper blue line when  
3 you need to get to it.

4 MS. MCNEIL: Again, the director did have Mr.,  
5 did have the Enviropel letter, he did, it was addressed  
6 in one of the rebuttal comments, it was actually  
7 discussed in some of the CEQA findings, the  
8 transformation technology potential with a package that  
9 went up, but that's an uncertain. We have to deal with  
10 what we have.

11 BOARD MEMBER PAPARIAN: Okay. Let me ask a  
12 couple other questions real quickly. When I asked the  
13 applicant last week to describe the recycling facility  
14 at the landfill, how much recycling they were expecting  
15 to come into the facility and then go out, they were  
16 challenged by that, they couldn't give me an answer  
17 then.

18 What is your estimate of the amount of  
19 recycling that is going to occur at the facility? How  
20 many tons are going to come out in terms of recycling at  
21 the facility?

22 MS. MCNEIL: I would tell you that I would  
23 expect that most of the waste that arrives at the  
24 landfill has already been removed, the recycling  
25 material has been removed.

1           We will have transfer stations that will be  
2 there, we will already have the curbside recycling that  
3 will have occurred. So predominantly the waste that's  
4 going to be received from Gregory Canyon, to Gregory  
5 Canyon will be in the transfer trailer trucks that have  
6 already had the predominant amount of recyclables  
7 removed.

8           The green waste, if it's received for ADC,  
9 already has to be processed before it enters the site,  
10 there's no processing on site.

11           So the recycling component of the Gregory  
12 Canyon Landfill would be predominantly for the  
13 self-hauls, predominantly for people that are bringing  
14 in the source separated materials, and at that point I  
15 cannot tell you what the demand will be for that, I do  
16 not know.

17           BOARD MEMBER PAPARIAN: The recycling facility  
18 at the building at the facility, will it be a building?  
19 What will it be?

20           MS. MCNEIL: Well, it's a bin area where they  
21 set up different bins for source separated materials  
22 such as the newspaper and the white goods and the cans  
23 and the bottles and things like that.

24           BOARD MEMBER PAPARIAN: So no estimate of the  
25 tonnage coming out of the --

1 MS. MCNEIL: At this time I cannot tell you  
2 that.

3 BOARD MEMBER PAPARIAN: Okay. The material  
4 going in is coming from transfer stations, where is the  
5 material coming from?

6 MS. MCNEIL: Well, we do have some charts in  
7 our siting element that show the material coming from  
8 the recycling, or the transfer stations in Carlsbad, in  
9 Palomar, Escondido. It could come as far away as the  
10 ones in San Diego.

11 Again, the transfer stations, once they get the  
12 materials, have their franchise agreements, they haul to  
13 the landfills that they get the best price for.

14 BOARD MEMBER PAPARIAN: Okay. Any presumption  
15 of stuff coming from Oceanside? I know we're going to  
16 hear from Oceanside later.

17 MS. MCNEIL: Well I know that Oceanside will  
18 address their issues and concerns. I know they have a  
19 resolution that says their waste will not go there. I  
20 do not know long they'll take that stand, I can't  
21 predict that, I don't know.

22 BOARD CHAIR MARIN: Okay.

23 BOARD MEMBER PAPARIAN: And then one last  
24 question. The siting, the current siting element, I  
25 understand that this current siting element wasn't



1 applied to this facility for various reasons. I asked  
2 our staff about the pass fail criteria in the current  
3 siting element, their estimate was it would have failed  
4 three of the eight criteria in that siting element. I  
5 know the opponents tell us that it would have failed  
6 more than three of those eight. Do you have any reason  
7 to disagree with our staff that it would have failed  
8 three of the eight if those criteria were applied?

9 MR. LORANG: Mr. Paparian, through the Chair,  
10 if I may, Rod Lorang, County Counsel.

11 We've submitted a written answer to this  
12 question as part of the chart that staff referred to.  
13 It may well be that the facility would not pass some of  
14 those criteria, but they are not applicable to this  
15 facility nor are they applicable to the other proposed  
16 facilities in general that are included in the draft  
17 siting element, those criteria are intended for the  
18 screening of sites that have not already been screened  
19 in some fashion.

20 The question of whether this facility meets the  
21 requirements of your Board for inclusion in the siting  
22 element is a very different question legally than the  
23 question of whether this facility meets the pass fail  
24 criteria in the current version of the siting element.  
25 We meet the requirements of this Board.

1           BOARD MEMBER PAPARIAN: Okay. But you don't  
2 disagree with the staff that if those criteria were  
3 applied it would fail at least three?

4           BOARD CHAIR MARIN: Before you answer that, let  
5 me ask our staff because what staff has provided us, at  
6 least in writing, it says here that in response to that  
7 DH conducted an extensive analysis and concluded that  
8 the Gregory Canyon site was consistent with each of the  
9 eight pass fail siting criteria.

10           Howard, would you please take that?

11           MR. LEVENSON: Madam Chair, in the handout that  
12 we provided to the Board that raised this question about  
13 the allegation that the Gregory Canyon Landfill failed  
14 the siting element criteria, we indicated that whether  
15 or not the site is consistent with the selection  
16 criteria is irrelevant due to Proposition C.

17           BOARD CHAIR MARIN: That's right.

18           MR. LEVENSON: We also did cite what the  
19 opponents had indicated they thought were criteria that  
20 the site would fail.

21           BOARD MEMBER PAPARIAN: But I mean the response  
22 you gave to me indicated that if you were to apply those  
23 siting criteria, that there were three of 'em that the,  
24 that the facility would have trouble with. It was  
25 numbers --

1 MR. LEVENSON: Mr. Paparian.

2 BOARD MEMBER PAPARIAN: I can show you your  
3 e-mail to me if you want.

4 MR. LEVENSON: Right. I have that e-mail as  
5 well, Mr. Paparian, and I do want to point out that we  
6 said that we did not mean to imply that we'd  
7 specifically analyzed the siting criteria, but just to  
8 indicate that the issue had been raised by the opponents  
9 and that no determination had been made one way or the  
10 other.

11 We then did cite the opponents' contention that  
12 numbers five, six, and eight would have been criteria  
13 that the site would have failed on.

14 BOARD MEMBER PAPARIAN: Okay. And do you have  
15 a reason to disagree with that? Do you think it's  
16 further than a thousand feet from a historic or the  
17 National Register type thing or anything like that?

18 BOARD CHAIR MARIN: Well, the question --

19 BOARD MEMBER PAPARIAN: I know staff is trying  
20 to avoid dealing with the question, but I'm really, if  
21 it was a facility right now --

22 BOARD CHAIR MARIN: But you're asking, Mr.  
23 Paparian, with all due respect, you're asking something  
24 that is really unnecessary in that Proposition C negates  
25 your question.

1           MR. LEVENSON: I would add that as far as we  
2 understand the facts are correct as stated by the  
3 opponents, however it is simply not something that we're  
4 able to make a determination on because it's, because of  
5 Proposition C it's out of our, out of our purview now.

6           BOARD MEMBER PAPARIAN: Okay. So I think,  
7 yeah, I think you answered my question, yeah. You have  
8 no reason to disagree with the opponents on that?

9           BOARD CHAIR MARIN: Yes, go ahead.

10          MR. LORANG: Through the Chair, Mr. Paparian.  
11 I would add that in the draft siting element that you  
12 referred to, those criteria are no longer found.

13          BOARD MEMBER PAPARIAN: I didn't refer to the  
14 draft, I referred to the existing one.

15          MR. LORANG: I know the criteria are in the  
16 existing one, but you noted that the draft siting  
17 element, the current, I believe you referred to it, the  
18 current siting element is not before the Board.

19          If that was intended to be a referral to the  
20 draft siting element that's about to begin local review,  
21 those pass fail criteria have been deleted.

22          BOARD MEMBER PAPARIAN: But the draft is not in  
23 place, right?

24          MR. LORANG: That's right, yes.

25          BOARD MEMBER PAPARIAN: All right.

1 MR. LORANG: Thank you, sir. Thank you, Madam  
2 Chair.

3 BOARD CHAIR MARIN: Thank you, Mr. Lorang.  
4 Ms. Moulton-Patterson.

5 I think we may have a couple of more questions,  
6 Mr. Lorang.

7 Ms. Moulton-Patterson.

8 BOARD MEMBER MOULTON-PATTERSON: Thank you. I  
9 think it was, is it Ms. McNeil if I might ask?

10 MS. MCNEIL: Yes.

11 BOARD MEMBER MOULTON-PATTERSON: When Mr.  
12 Paparian was asking you about the recycling, I think you  
13 said, and correct me if I'm wrong, that you thought that  
14 most of the waste that went there will have been  
15 recycled, is that what you said?

16 MS. MCNEIL: It's my, the way the waste stream  
17 works in San Diego County is the predominance of the  
18 waste is picked up by the packer trucks, it goes to a  
19 transfer station where the materials that are removed,  
20 such as the cardboard and the large recyclables and  
21 things like that are pulled out of the waste stream at  
22 that time, and then the waste is consolidated into a  
23 large transfer trailer truck which then goes to the  
24 landfill.

25 Also, there's a significant recycling program

1 in the municipalities where the recyclables are put at  
2 the curb, so they're source separated at the time of  
3 pickup.

4 There will be some self-hauls to the landfill  
5 where the recycle bins will be available to the people  
6 that are bringing in their waste where they can already  
7 have the source separation and put them in the bins.

8 BOARD MEMBER MOULTON-PATTERSON: I believe  
9 Prop. C was named North County Recycling and Solid Waste  
10 Disposal Initiative. That kind of implies that they're  
11 going to be doing a lot of recycling there.

12 MS. MCNEIL: I cannot say anything other than  
13 you're correct, that's what the title is.

14 BOARD MEMBER MOULTON-PATTERSON: Okay. Thank  
15 you.

16 MS. MCNEIL: You're welcome.

17 BOARD CHAIR MARIN: Thank you.

18 Ms. Mule.

19 BOARD MEMBER MULE: Madam Chair, thank you. I  
20 just want to direct both Mr. Paparian and Ms.  
21 Moulton-Patterson, we did receive an e-mail from Mike  
22 Godge on Thursday, December 9th, and in that e-mail it  
23 says, "Attached are responses to questions raised in the  
24 P&E Committee meeting last Monday."

25 One of those questions does pertain

1 particularly to the recycling element on page five, and  
2 it does basically describe what the recycling center, if  
3 you will, it says, "The project -- " and I'll read this  
4 into the record.

5 "The project will include a  
6 recyclables drop-off center, and a  
7 facility for storing and shredding  
8 waste tires. While green waste  
9 processing is not allowed, the use of  
10 green waste for ADC may be considered.

11 "Currently each city in North  
12 County has a franchise hauler with an  
13 exclusive right to collect all waste  
14 and recyclables at the curbside using a  
15 multi-cart system. MRF's or material  
16 recovery facilities are located in  
17 reasonably close proximity to the  
18 city.

19 "Given this existing  
20 infrastructure, it would not be cost  
21 effective to transport recyclable  
22 materials to Gregory Canyon for  
23 processing."

24 So I think that addresses your concerns about  
25 how recyclables are collected prior to the waste being

1 brought to the landfill.

2 Thank you.

3 BOARD MEMBER PAPARIAN: Just a quick, I  
4 understand, I understand that. It doesn't address my  
5 fundamental concern about this originally being sold as  
6 a recycling facility and there now being very little  
7 recycling taking place, if any, at the facility.

8 BOARD CHAIR MARIN: Okay. Maybe that's  
9 something that the proponents can address, the applicant  
10 can do that when they come.

11 Any further questions to the LEA?

12 (No response.)

13 BOARD CHAIR MARIN: Okay. Will the applicant  
14 come forward? Mr. Hutton, is it?

15 MR. HUTTON: Good afternoon, Madam Chair and  
16 members of the Board. My name is Bill Hutton, I'm legal  
17 counsel to Gregory Canyon, and also in charge of  
18 managing the permitting effort.

19 With me today, as last week, are Mike Zischke  
20 from Morrison Foerster who is a CEQA expert involved  
21 with the project, and John Voucher, our technical  
22 project manager from Brian A. Stirat and Associates.  
23 Mr. Zischke will be making a brief presentation at the  
24 end of my remarks, and all of us will then be available  
25 to answer your questions.



1           First of all, I think it's very important to  
2   express our appreciation and give credit to the  
3   technical work that's been done by Board staff, by the  
4   LEA, and by our own technical team. We can really see  
5   that the result of all of that hard work and technical  
6   input, suggestions for making this project better, have  
7   resulted in a project that we think is sound in all  
8   respects. And for that reason we stand here and believe  
9   that we have earned your concurrence vote today.

10           The need for the project is not referenced in  
11   the state minimum standards, and for that reason it's  
12   not part of your review under Section 44009. I don't  
13   want to add to what the LEA's said, they've addressed  
14   this issue in detail, but the project is needed and it  
15   is a substantial benefit.

16           In 1994 the voters approved Proposition C  
17   because North County's only landfill was closing and a  
18   new landfill was required.

19           It's important to understand what's happened  
20   since 1994 in terms of waste generation in North County,  
21   and I think that maybe goes to the question of where  
22   will the waste come from.

23           In 1994 North County produced about 550,000  
24   tons of waste a year. Ten years later, despite good  
25   progress on diversion, getting pretty close to 50

1 percent, we're between eight and 900,000 tons a year  
2 today, and we're projected to go up to 1.48 million tons  
3 by 2017.

4 The reality is that the North County area has  
5 been growing very, very rapidly, and in fact has  
6 outstripped the ability for diversion to keep pace with  
7 those increases in both population and economic growth.

8 Gregory Canyon's capped at a million tons a  
9 year. For that reason it appears that there will be  
10 certainly sufficient tonnage to make that site  
11 economically viable and perhaps a surplus. And to the  
12 extent that other facilities can come on-line, like the  
13 Enviropel facility, that would be welcomed.

14 In fact, we are in contact with Enviropel.  
15 We've talked to them most recently within the last two  
16 weeks. We think it's an interesting project, we've made  
17 some suggestions for them as to where to put it, and we  
18 think it might eventually, if it works, if it's  
19 technically feasible, if it's economically viable, might  
20 become a nice piece of the county's integrated waste  
21 management strategy. But at the same time, there will  
22 always be a need for disposal facilities, and we would  
23 like to fill that need with what we believe is a truly  
24 state-of-the-art facility.

25 Now we've moved forward to 2004 and there has

1 been a second vote. And again by a two to one margin  
2 the voters have spoken and they want Gregory Canyon. We  
3 were pleased to delay your consideration of this matter  
4 until we heard the voice of the people one more time.

5           It's been a long campaign. We've had the  
6 public's overwhelming support. Because of that we have  
7 not tried to inundate you with letters or e-mails.  
8 650,000 voters in San Diego have spoken, and we hope  
9 that you will hear their voice.

10           We have submitted a few letters or a few  
11 letters have been submitted to you that we did want to  
12 take note of in support of our project, from the  
13 chairperson of the County Board of Supervisors, from  
14 former Senator Lucy Killea, a noted environmentalist in  
15 her time with the legislature. Also letters from the  
16 San Diego Chamber of Commerce and the Taxpayers  
17 Association.

18           I think the point of all of this and why the  
19 public supports this project is simple common sense. A  
20 landfill was closing in 1994, North County needs a  
21 landfill. Ten years later the county has grown very  
22 substantially, it still needs a landfill. It made  
23 common sense to the voters then, it makes sense now, and  
24 we're very gratified with that support.

25           I wanted to address a couple other issues that

1 we did not talk about last week at the P&E Committee.  
2 The first is air quality and dust. And I wanted to take  
3 a few minutes to describe what we have in mind to  
4 control dust and meet those standards. There is a state  
5 minimum standard, it's 27 CCR 20800 that talks about  
6 minimizing dust and avoiding obscuring vision. And  
7 really the, it looks like the thrust of those, of that  
8 state minimum standard goes to on-site activity to  
9 control nuisance and safety hazards. Concurrently with  
10 that there are air quality standards.

11           Instead of looking on-site, the air quality  
12 standards tend to look at impacts off-site. In fact,  
13 with respect to dust, or it's known as particulate or PM  
14 10, you actually measure that at the property boundary,  
15 and so you're really looking off-site.

16           So air quality standards combined with your  
17 state minimum standard really provide a complete package  
18 that covers all aspects of the project.

19           The Final Environmental Impact Report did find  
20 a potential significant impact for PM 10 off-site. The  
21 analysis, as we now all know, was very conservative.  
22 What it did was it took baseline data from the city of  
23 Escondido, which is an urban area, and then added onto  
24 that projected emissions from the project.

25           What we have learned since then, we've now

1 completed two years of on-site air quality monitoring,  
2 that actual particulate levels at the site are about a  
3 third less than exist in Escondido, an urban area, and  
4 so the analysis may well have been different had it been  
5 undertaken with that data.

6 But nonetheless, before we can proceed we need  
7 a permit from the San Diego Air Pollution Control  
8 District, and we need to meet ambient air quality  
9 standards.

10 That's been an interesting process because the  
11 level of review by APCD is very, very extensive. In  
12 fact, so much so that we've had to estimate emissions  
13 for each year of the project from pre-construction to  
14 closure, and then come up with a control strategy to  
15 meet ambient air quality standards. That work's been  
16 done, and our modeling shows we can do it. It will be a  
17 combination of controls, dust control using water and  
18 other materials.

19 There will be limitations on excavation and  
20 construction to assure that particulate levels stay  
21 within standards.

22 Also, I think it's very likely that we'll see  
23 some limitations on activity based upon certain weather  
24 patterns, to simply avoid problems by shutting down  
25 under certain weather conditions.

1           The next topic I'd like to address briefly is  
2 environmental justice. And I know that's been an  
3 important issue for this project because of its  
4 proximity to two cultural features on private property,  
5 Gregory Mountain and Medicine Rock.

6           I have to say it, I've said it twenty times and  
7 I'll say it twenty more times, the LEA simply won't take  
8 enough credit for what it did. They recognized the  
9 importance of the issue, there was an extensive public  
10 participation process, extended public comment periods,  
11 private consultations with affected communities, and a  
12 combination throughout the process.

13           And I think what's most remarkable about this  
14 is that that was all done really before there was any  
15 guidance from Cal EPA such as we're starting to see  
16 today.

17           What that tells me when you do it at that early  
18 stage and put that level of thought into it is that they  
19 took it very seriously and it wasn't just lip service.  
20 And I think that they're very much to be congratulated.

21           But environmental justice is also more, there's  
22 substance and there's process. And the process has been  
23 exemplary, but the substance is that the EIR  
24 commissioned a study that showed that there are no  
25 disproportionate Impacts from the project on any

1 minority communities.

2 And I also would like the Board to note that  
3 that has not really been significantly challenged by the  
4 Pala Band. It's submitted over four hundred comments on  
5 the Draft EIR which included the study, and not a single  
6 one challenged that finding.

7 I'd like to take a couple minutes just to close  
8 to answer some of the questions that have arisen. I  
9 think we've addressed where the waste will come from.  
10 The project objectives in the EIR, to provide a landfill  
11 to serve North County primarily, secondly the remainder  
12 of San Diego County.

13 The LEA actually did an analysis in the EIR as  
14 to the likelihood that out of county waste would ever be  
15 received at Gregory Canyon, concluded that that was  
16 unlikely and speculative at best. Mr. Erbeck put it as  
17 well as you can, that waste will likely go to the  
18 cheapest, safest place it can find, and Gregory Canyon  
19 will serve that need for North County.

20 Also, when we're seeing waste projections  
21 pretty soon going over the annual capacity of the  
22 landfill, whether individual jurisdictions choose not to  
23 use Gregory Canyon probably doesn't affect that overall  
24 analysis.

25 Finally, I did want to let the Board know that

1 in response to the notice that we are going through a  
2 refinancing, that's in progress, we're expecting to  
3 complete that pretty shortly, and that issue will be  
4 addressed.

5 At this point I'd like to turn it over to Mr.  
6 Zischke if there are not any questions, or after that  
7 we'd be happy to take your questions.

8 BOARD CHAIR MARIN: Why don't we listen to Mr.  
9 Zischke first.

10 MR. ZISCHKE: Good afternoon, Madam Chair and  
11 Board members. I am Michael Zischke, I am the co-chair  
12 of the Land Use and Environmental Law practice group at  
13 Morrison and Foerster. I am defense counsel for the  
14 environmental impact report that has been prepared for  
15 this project and, as you know, is being challenged in a  
16 court action in San Diego County. So I'm defending that  
17 environmental impact report.

18 I want to make a couple of brief comments and  
19 then would be available to respond to questions. First,  
20 with respect to the EIR, you heard from the LEA but I  
21 want to second their remarks about how thorough both the  
22 EIR is in terms of process and substance. It is not  
23 uncommon to see an EIR that has been recirculated once,  
24 this one was recirculated twice for a total of three  
25 public review periods in addition to all the other



1 public review that was done.

2           It is a, it is truly a huge document because it  
3 includes supporting studies on all of the technical  
4 issues. So this Board can be confident when you take  
5 your action you have a very solid environmental impact  
6 report that took a conservative approach and looked at  
7 every issue that needed to be evaluated.

8           From a legal perspective also, it is  
9 significant that that EIR has been challenged and that  
10 this Board is acting as a responsible agency. Because  
11 from a legal perspective, the EIR, according to the CEQA  
12 statute, comes to this Board presumed to be legally  
13 adequate, and that's what the Public Resources Code says  
14 is that the Board shall assume that the EIR is adequate.  
15 That adequacy is going to be resolved in the San Diego  
16 court action, and we're very confident based on the  
17 thoroughness of the Environmental Impact Report. But it  
18 is as a legal matter presumed adequate as it comes  
19 before the Board.

20           There was also some discussion and a number of  
21 issues were raised at the hearing before the Permitting  
22 and Enforcement Committee about the scope of the Board's  
23 responsibility under CEQA, and I just want to address  
24 that briefly.

25           The Board, acting as a responsible agency, has

1 a very important role, but there are some limits on that  
2 role. In particular, the CEQA statute says that when an  
3 agency is evaluating environmental impacts and  
4 mitigating or avoiding significant effects, the public  
5 agency, and I'm going to quote from Public Resources  
6 Code 21004, "May exercise only those express or implied  
7 powers provided by law other than this division,"  
8 meaning law other than CEQA.

9 So the authority for this Board acting on this  
10 permit comes from the state minimum standards as set  
11 forth in the Public Resource Codes provisions for those  
12 standards.

13 CEQA says that's the source of your authority.  
14 CEQA does direct you to use that to mitigate impacts,  
15 but CEQA doesn't expand the Board's powers beyond what's  
16 provided in the integrated waste management laws.

17 And in fact, that's further reflected in the  
18 Public Resources Code 43101, the Solid Waste Regulatory  
19 Reform Act, which said it's important in solid waste  
20 permitting to have a clear division of authority between  
21 the Waste Board, water boards, the air board, and other  
22 state agencies and local enforcement agencies.

23 And I just, I think in terms of the way in  
24 which CEQA is portrayed and a number of the comments  
25 that were made at the committee hearing I thought

1 actually went really beyond topics that relate to the  
2 state minimum standards, and I think, as reflected in  
3 the staff report, the project meets those standards and  
4 that should be the basis for the Board's decision.

5 And we would be available for any questions,  
6 and thank you very much.

7 BOARD CHAIR MARIN: Thank you, Mr. Zischke.

8 MR. HUTTON: That ends our presentation, we'd  
9 be open for questions. And really to conclude, we'd  
10 like to thank you, thank staff for all the efforts.

11 It's funny, we feel like we have 650,000 people  
12 behind us, twice in ten years this project has been  
13 approved in the county, in every city, in every  
14 supervisorial district, and in every Congressional  
15 district in San Diego County, and we've met our, I think  
16 we've done what we needed to do.

17 We have a first class project that meets all  
18 the requirements, and we'd very much appreciate your  
19 support.

20 BOARD CHAIR MARIN: Thank you, Mr. Hutton, I'm  
21 going to ask my Board members if they can hold off on  
22 their comments because there's a couple of people that  
23 need a break.

24 So if it is okay with everybody we will be back  
25 in at 3:05.

1 (Thereupon there was a brief recess.)

2 BOARD CHAIR MARIN: We are going to resume the  
3 Board meeting now. Everybody's here, but for the record  
4 would you please call the roll?

5 BOARD SECRETARY JIMENEZ: Moulton-Patterson?

6 BOARD MEMBER MOULTON-PATTERSON: Here.

7 BOARD SECRETARY JIMENEZ: Mule?

8 BOARD MEMBER MULE: Here.

9 BOARD SECRETARY JIMENEZ: Paparian?

10 BOARD MEMBER PAPARIAN: Here.

11 BOARD SECRETARY JIMENEZ: Washington?

12 BOARD MEMBER WASHINGTON: Here.

13 BOARD SECRETARY JIMENEZ: Marin?

14 BOARD CHAIR MARIN: And I'm here. And just for  
15 the record, obviously Ms. Peace is out, she has recused  
16 herself from the proceedings on item 30.

17 Okay. If I may, with the indulgence of the  
18 Chair -- the chair of the sustainability committee. Mr.  
19 Paparian, there are a couple of people that would like  
20 to say a few words and they are one representative from  
21 Mr. Ducheny, and the other one is from Senator Haynes'  
22 office. If that is okay, I would like to take them now.

23 BOARD MEMBER PAPARIAN: Sure, can I ask the  
24 proponents afterwards?

25 BOARD CHAIR MARIN: Yes, we'll go back.

1 CHIEF COUNSEL CARTER: Excuse me, Madam Chair,  
2 did you want to take ex-parte?

3 BOARD CHAIR MARIN: Oh, ex-parte, thank you, I  
4 always forget that.

5 Ms. Moulton-Patterson.

6 BOARD MEMBER MOULTON-PATTERSON: None.

7 BOARD CHAIR MARIN: Ms. Mule?

8 BOARD MEMBER MULE: Up to date.

9 BOARD CHAIR MARIN: Mr. Paparian.

10 BOARD MEMBER PAPARIAN: Up to date.

11 BOARD CHAIR MARIN: Mr. Washington? He left.  
12 We'll ask him later. And I am up to date.

13 Ex-parte, Mr. Washington?

14 BOARD MEMBER WASHINGTON: I'm up to date.

15 BOARD CHAIR MARIN: Thank you.

16 Thank you, Ms. Carter.

17 If I may call upon Wendy Mitchell from Senator  
18 Ducheny's office patiently waiting to speak.

19 MS. MITCHELL: Thank you so much, Madam Chair,  
20 for taking us out of order, we really appreciate it. I  
21 have a letter from Senator Ducheny that can be  
22 distributed to the Board, and I also just wanted to make  
23 some brief comments.

24 As you said, my name is Wendy Mitchell, I am  
25 chief of staff for Senator Ducheny. She is actually out

1 of the state right now so she was sorry she was unable  
2 to attend.

3 But I'm here on a bipartisan effort with  
4 Assemblymember Haynes' office to oppose the issuance of  
5 this permit. We strongly disagree with the staff  
6 recommendations that CEQA and overriding, that CEQA is  
7 adequate and the overriding considerations are adequate.

8 We believe, and we believe that actually the  
9 charge to the LEA on some level support that there is  
10 existing capacity. We don't need to go after this, you  
11 know, thus far untouched canyon.

12 We also strongly oppose and are concerned about  
13 the destruction of a cultural and historical site of the  
14 Pala Indians.

15 Senator Ducheny along with Senator Burton,  
16 Senator Chesbro, and Senator Haynes worked very hard  
17 over the last several years on SB 18, protection of  
18 sacred sites. And really it was prompted by projects  
19 like this that did not take into consideration cultural  
20 and historical sites that are important to the Native  
21 Americans.

22 And the Governor ultimately signed and will go  
23 into law January 1 of this year that they are, they  
24 should be protected from destruction, and they're  
25 important to the Native American peoples.

1           So we do feel very strongly about that issue.

2   I understand that it doesn't apply in this case, but the  
3   intent of that law passed by the legislature and signed  
4   by the Governor I think should be heeded by this Board.

5           We also believe that, you know, given, I guess  
6   given those specific points, additionally the proponents  
7   have suggested that this was passed by initiative,  
8   although I would point out that on the initiative yes  
9   meant no and no meant yes, and even sometimes in the  
10   legislature that gets a little confusing.

11          So finally, I understand that a perspective of  
12   most of the Board members, and if this Board is to pass  
13   this, we would hope that some restrictions were put on  
14   the permit that would include a substantial recycling  
15   that are consistent with the title of the ballot  
16   initiative, real recycling on-site.

17          And additionally, oh, restrictions on outside  
18   waste being brought into the facility.

19          So thank you very much for your time and for  
20   taking us out of order, and have a wonderful day.

21          BOARD CHAIR MARIN: Thank you, Ms. Mitchell,  
22   and our regards to the Senator.

23          The representative from Assemblymember Ray  
24   Haynes office. I always call him senator because I knew  
25   him as a senator, so --

1           MR. SEKU-AMEN: Thank you, Chairwoman, I guess  
2 it's once a senator always a senator type of a thing  
3 that sticks in our head. Thank you, Madam Chairwoman  
4 and members of the Board.

5           My name is Maliki Seku-Amen, I'm legislative  
6 director for Assemblyman Haynes. I have brought -- and  
7 by the way, the Senator Pala, Mr. Haynes apologizes for  
8 not being here, he had a scheduling conflict. I do have  
9 letters of opposition here, original for yourself, Madam  
10 Chairwoman, and copies for the members of the Board.

11           Essentially the member wishes to add his voice  
12 to those opposing the issuance of a full solid waste  
13 facility permit for the Gregory Canyon Landfill, and  
14 he's urging you to deny the issuance of the permit.

15           However, if you are planning to approve the  
16 permit for this highly, highly inappropriate landfill,  
17 the member urges you to ensure that the permit reflects  
18 the promises that were made by the proponents of San  
19 Diego's recent initiative concerning this issue.

20           And the promises that the proponents made was  
21 that they will not take out of county trash, that North  
22 County needs to take care of its own trash, so use will  
23 be restricted to North County's trash, and that the  
24 recycling center must recycle a minimum of 25 percent of  
25 their solid waste.



1           Considering the enormous risk which this  
2 landfill presents, we're certain that it is not too much  
3 to ask to have these promises, which were made by the  
4 proponents, mind you, incorporated into the permit  
5 itself.

6           Thank you very much.

7           BOARD CHAIR MARIN: Thank you, Mr. Seku-Amen.  
8 I really appreciate it, and also the same thing to  
9 Assemblymember Haynes' office, please give him our  
10 regards. And we will take his comments very seriously,  
11 we'll ask of the proponents, of the applicants later on.

12           You're welcome to stay, I know you guys are  
13 very, very busy, but those items have already been  
14 noted.

15           Mr. Paparian, you had a couple of questions if  
16 I may ask the applicants to come forward.

17           BOARD MEMBER PAPARIAN: Yeah, thank you, Madam  
18 Chair. And actually on some of the questions that just  
19 came up regarding where the waste is coming from for the  
20 facility, we've heard or we're going to hear from  
21 Oceanside that they're not going to send their waste to  
22 the facility, there are other locations that have  
23 long-term contracts with the out of, you know, without  
24 using Gregory Canyon.

25           How are you going to get to, you know, the

1 million tons a year or however much waste you're going  
2 to take without some of the local jurisdictions  
3 participating in the facility?

4 MR. HUTTON: The stated purpose in this  
5 landfill in the FEIR was to provide disposal capacity  
6 for both North County and, secondarily, the entire  
7 county as a whole. And so when you couple that, and  
8 remember that overall waste generation in North County  
9 is likely to outstrip the permitted annual capacity of  
10 Gregory Canyon fairly quickly, again, decisions by any  
11 one jurisdiction really don't change the analysis that  
12 the facility is needed, the facility will receive  
13 waste. Again, these are decisions that are made by  
14 local jurisdictions.

15 In the case of Oceanside I believe that, I  
16 think last week it was mentioned there was about eight  
17 years on their contract, and so that's obviously fairly  
18 early in the lifetime of Gregory Canyon.

19 Carlsbad has a longer term contract to use  
20 another facility. But other than Carlsbad, no  
21 municipality in North County has a long-term commitment  
22 to go elsewhere.

23 But again, as I mentioned before, with waste  
24 generation and the fact that we do think and we've seen  
25 time and time again that waste will come to the most

1 cost effective, safe facility, and the fact that waste  
2 generation will exceed annual permitted capacity, that  
3 we will be able to operate this facility and receive  
4 sufficient trash to make it economically viable.

5 BOARD MEMBER PAPARIAN: So have you had any  
6 discussions, preliminary or otherwise, with any  
7 out-of-county sources for waste?

8 MR. HUTTON: Yes, we have actually. We had a  
9 discussion with the Los Angeles Bureau of Sanitation  
10 because there were some news articles that came up that  
11 suggested that Gregory Canyon might be a candidate for  
12 City of Los Angeles waste. That was a mistake. And as  
13 it turned out, that a proposer up in Los Angeles never  
14 did mention Gregory Canyon.

15 But what we have, what we did in our  
16 communication was on October 14th, just recently, we  
17 wrote a letter to the L.A. Bureau of Sanitation  
18 declining consideration for receipt of L.A. trash, and  
19 asking that our name be withdrawn from any consideration  
20 with respect to that particular project.

21 BOARD MEMBER PAPARIAN: And that was L.A. trash  
22 related to the trash that's now going to Sunshine  
23 Canyon?

24 MR. HUTTON: That's correct.

25 BOARD MEMBER PAPARIAN: Not other L.A. trash?

1           MR. HUTTON: We've had no other -- you asked  
2 what discussions we've had, that's the discussion, the  
3 only one to date.

4           BOARD MEMBER PAPARIAN: So you've sought no  
5 sources out at the county?

6           MR. HUTTON: We have not solicited any sources  
7 out at the county.

8           BOARD MEMBER PAPARIAN: So would you have any  
9 problem as a couple of people just asked that there be  
10 some restriction on out-of-county waste coming to the  
11 facility?

12          MR. HUTTON: We've been over this, over and  
13 over before, this issue came up as early as 2000. The  
14 LEA analyzed it at great length, found that it was  
15 highly unlikely and speculative that we would receive  
16 out-of-county trash. It's been looked at, enough is  
17 enough. We, and we feel the issue should be put to bed  
18 at this point.

19          BOARD MEMBER PAPARIAN: Could you put it to bed  
20 by restricting out-of-county waste?

21          MR. HUTTON: No, sir, we think it's been  
22 analyzed and it's been, it's been analyzed, we're a  
23 landfill for San Diego. We had a concrete opportunity,  
24 I suppose, to accept waste from out of the jurisdiction,  
25 we specifically declined it, I think enough's been said.

1 BOARD CHAIR MARIN: Thank you.

2 Ms. Moulton-Patterson, please.

3 BOARD MEMBER MOULTON-PATTERSON: Well Mr.

4 Paparian keeps stealing my questions before I can even

5 ask them, but I was going to ask the same --

6 BOARD CHAIR MARIN: Genius minds think alike.

7 BOARD MEMBER MOULTON-PATTERSON: I guess so. I

8 was just going to ask, you know, if you would be willing

9 on the record to restrict. I come from Orange County

10 and they take trash from everywhere, solve all their

11 problems, and I just wondered if, for the record, you

12 would restrict taking waste from L.A. or any other

13 county? But you're not willing to do that, is that

14 right?

15 MR. HUTTON: Again, I've kind of answered the

16 question, but again to repeat, we're there, we're

17 designed, we're a fairly small site compared to

18 facilities being built these days. We're there to serve

19 San Diego County. This has been reviewed over and over

20 and over again, and we put our money where our mouths

21 were when we had the chance to do that.

22 BOARD MEMBER MOULTON-PATTERSON: So you're not

23 going to take it?

24 MR. HUTTON: So I'll stand on my answer.

25 BOARD MEMBER MOULTON-PATTERSON: Fine.

1           BOARD CHAIR MARIN: In addition to that, and I  
2 would just remind the Board that there is the U.S.  
3 Supreme Court that has subsequently determined that  
4 solid waste is a commodity in interstate commerce and  
5 that local flow control ordinances burden the interstate  
6 commerce and, therefore, are invalid.

7           BOARD MEMBER PAPARIAN: Madam Chair, if I can  
8 respond to that?

9           BOARD CHAIR MARIN: Yeah.

10          BOARD MEMBER PAPARIAN: There are restrictions  
11 on, I mean he already admitted that they're not going,  
12 that they voluntarily agreed not to take waste that  
13 would otherwise be destined to Sunshine Canyon. I don't  
14 think that's a violation of the Supreme Court  
15 provisions, nor is the restriction that Riverside County  
16 has entered into with the facility at El Sobrante. So  
17 there are ways to restrict out-of-county waste. It  
18 would take the applicant agreeing to do that.

19          BOARD CHAIR MARIN: Okay. That's -- okay.

20          The next speaker -- thank you, Mr. Hutton and  
21 Mr. Zischke?

22          MR. ZISCHKE: Zischke.

23          BOARD CHAIR MARIN: Zischke, okay. I am going  
24 to, this will be the order that I will take -- oh, no,  
25 no, no, Tim Cass from the San Diego County Water

1 Authority, welcome.

2 MR. CASS: Thank you, Madam Chair, Board  
3 members. My name is Tim Cass with the Water Resources  
4 Department of the San Diego County Water Authority.

5 The water authority and California special  
6 district submitted written and oral comments at your  
7 Permitting and Enforcement Committee on December 6th.

8 I am here today to reiterate on an item of  
9 special interest to the water authority, that is the  
10 protection and relocation of portions of the first San  
11 Diego aqueduct which is adjacent to the project site.

12 The water authority is the sole source of  
13 imported water for the San Diego area, providing about  
14 nine percent of total regional water supply. Without  
15 mitigation, the project could affect the integrity of  
16 our pipelines resulting from project blasting activities  
17 and construction traffic passing over the pipelines.

18 Proposition C and the EIR mitigation measures  
19 provide protection for the aqueduct that has been  
20 carried over into the proposed permit.

21 While the permit conditions are, one, prior to  
22 the commencement of Gregory Canyon Limited construction,  
23 there must be an executed agreement between Gregory  
24 Canyon Limited and the water authority providing for  
25 relocation and protection of the aqueduct.

1           And two, an encroachment permit from a water  
2 authority is required for project operations within the  
3 easement.

4           The water authority appreciates efforts of the  
5 local enforcement agency to ensure that regional water  
6 supply will not be affected by the landfill project.

7           We believe the proposed permit provides the  
8 needed protection, and we'd request that the permit, if  
9 approved, retain the relevant language as transmitted to  
10 you in a draft permit by the LEA in October, 2004.

11           Thank you for your consideration.

12           BOARD CHAIR MARIN: Thank you so much very  
13 much.

14           BOARD MEMBER PAPARIAN: Madam Chair, can I ask  
15 a question?

16           BOARD CHAIR MARIN: Mr. Paparian.

17           BOARD MEMBER PAPARIAN: As I understand, part  
18 of the whole project is to move the aqueduct some  
19 amount?

20           MR. CASS: Correct.

21           BOARD MEMBER PAPARIAN: When are you going to  
22 move the aqueduct?

23           MR. CASS: It would be required that in, in the  
24 agreement that is reached between Gregory Canyon, the  
25 owner, and us, it would be worked out in detail.



1           The mitigation measures and the permit  
2 requirements in here is that that agreement be approved  
3 before construction take place, so we will work out with  
4 Gregory Canyon the actual timing on that.

5           BOARD MEMBER PAPARIAN: So you don't have any  
6 expectation about when it's going to happen or how long  
7 it will take?

8           MR. CASS: Not at this time, but we want the  
9 condition that the agreement be executed prior to permit  
10 to construct.

11          BOARD MEMBER PAPARIAN: Okay, thank you.

12          BOARD CHAIR MARIN: And that's already part  
13 of --

14          MR. CASS: Yes, those conditions are already in  
15 there.

16          BOARD CHAIR MARIN: I just want to ask one  
17 rhetorical question. Is there another water authority  
18 in San Diego that would have the concerns, or are you  
19 the water authority overseeing this particular project?

20          MR. CASS: We're the wholesale importer of  
21 water, and then there's several retail agencies that buy  
22 water from us, but we are the main supplier of the --

23          BOARD CHAIR MARIN: And you are satisfied that  
24 the conditions that you have requested have been met?

25          MR. CASS: Yes. What was submitted in October

1 by the LEA, if that remains in there we're satisfied.

2 BOARD CHAIR MARIN: Thank you. Thank you.

3 Okay. It is Lenore Voltorno and then Walter Rusinek  
4 from the Palas. And then I have had a request that Ms.  
5 Joyce Ward speak after that. And then we'll take the  
6 other people.

7 Hello again.

8 MS. VOLTORNO: Good afternoon, Madam Chair,  
9 members of the Board. My name is Lenore Voltorno, and  
10 I'm the Director of Environmental Services for the Pala  
11 Band of Mission Indians. And we have another PowerPoint  
12 presentation today, my part is going to be reasonably  
13 short and then I'm going to hand it over to Walter  
14 Rusinek.

15 Basically what I wanted to talk to you  
16 about today, here's the site itself, I know that all the  
17 Board members have seen the site, you've all been out  
18 there, you know where the site is. This is kind of what  
19 we're going to lose if the landfill goes in.

20 One of the things that I'd like to talk about  
21 today is environmental justice. It's something that's  
22 been brought up several times. You know, the fact that  
23 they asked for comments, that the LEA asked for  
24 comments, posted them on their website, and didn't  
25 include any of the pertinent comments into their Final

1 EIR does not constitute meaningful public participation.

2 One of the things that this Board commissioned  
3 was a study by UC Santa Cruz back in September to look  
4 at environmental justice issues. The Pala Band, as well  
5 as several other groups, came and gave a presentation  
6 then, and we assumed that you were all interested in  
7 environmental justice issues.

8 The reason that the Pala Band backed out of  
9 negotiations with Gregory Canyon Limited and the LEA was  
10 because the only viable option that was given to the  
11 tribe was that they would be allowed to go to the top of  
12 the mountain.

13 I'm going to go -- here's a closeup of the  
14 canyon itself. Here's a closeup of Medicine Rock which  
15 is about eight hundred feet from the site itself.

16 We still have concerns that the air quality  
17 degradation will actually degrade the pictographs on  
18 that rock.

19 This is the, this is taken from the EIR for the  
20 project applicants and it shows you what the project  
21 will look like when this is over.

22 You know, one of the things that was not able  
23 to be addressed in these public participation meetings  
24 was that the Luiseno Indians, which includes tribes all  
25 the way from Palm Springs down to the Mexican border and

1 across the border, consider the entire mountain sacred.  
2 So it would be Equivalent to a church, if any of you  
3 attend a church, to say, you know, that it's the entire  
4 church that you, where you do your worship.

5           The tribe does not only use this mountain at  
6 the top, you know. And the fact that we are going to be  
7 given access, the tribe's only option was to be given  
8 access to the top of the mountain once the trash was  
9 covered in this area. You know, it would be equivalent  
10 to filling a church with trash and then telling you you  
11 can, you can have your ceremonies on the roof and we'll  
12 pay for the ladder for you to get up there. That's  
13 basically the equivalent. And there was no other option  
14 that was offered.

15           You know, Mr. Paparian asked at the  
16 subcommittee meeting for an independent analysis of some  
17 very specific issues by the Integrated Waste Management  
18 Board staff. He did not want input, it was my  
19 understanding, from the applicant or from the project  
20 opponents. However, in this case I think that that's  
21 nearly impossible because the LEA and the project  
22 applicant are one and the same. There's very little  
23 differentiation there. And I think anyone that would  
24 challenge that, you know, on an environmental justice  
25 issue, you know, I'd like to see where the LEA and the

1 project applicant have disagreed at any point in this  
2 process. Where has the LEA really considered and  
3 incorporated any of the public comments that they so  
4 readily, you know, put out on the internet to take?

5 One of the things, just last week I was  
6 appointed as the tribal representative to the Cal EPA  
7 Subcommittee on Environmental Justice. And this is the  
8 reason, Gregory Canyon is the reason that the tribe is  
9 pursuing these options because the tribe is specifically  
10 interested in stopping this type of injustice now and in  
11 the future. Because when all the members of this Board  
12 are gone, when I'm gone, our children and grandchildren  
13 and great grandchildren are going to have to live with  
14 the contamination that's caused by this landfill.

15 I've heard from several Board members that they  
16 want to do things the way that they've always been  
17 done. That they want to change -- that they don't want  
18 to change the way that they've done things and that this  
19 is a very controversial permit, the most controversial  
20 permit that has ever been in front of this Board.

21 And I urge the Board to consider making change  
22 now. If ever there was a prime case to change the  
23 history of environmental justice for the better in the  
24 State of California, this would clearly be the case.  
25 And if this Board is afraid of making change and afraid

1 of addressing environmental justice issues, I question  
2 why the Board even exists.

3           As far as access to the site goes, I know that  
4 the staff report did mention that there was no access,  
5 that the tribe had no access to the site and that's  
6 absolutely not true. We do have access to the site,  
7 just as many people may go to their church to pray, we  
8 do not tell everybody everytime we're accessing the  
9 site. The tribe has access through the Hanson property,  
10 that is where Medicine Rock is located, through  
11 neighboring, through neighbors, members of River Watch,  
12 as well as the Salesian brothers property which we've  
13 recently purchased.

14           One of the issues that we have is that there's  
15 a lot of inconsistencies, and I'm going to defer to  
16 Walter Rusiek in a moment to address the inconsistencies  
17 here within the technical documents themselves.

18           But, you know, it's basically our opinion that  
19 this is clearly a case of environmental injustice. And  
20 I look forward to serving on this Board in terms of  
21 environmental injustice issues and being able to address  
22 that, because this is disgusting. This whole case has  
23 been disgusting, the things that have happened.

24           And it's not the fault of this Board, but I  
25 just question if the LEA is going to make a decision and

1 this Board is unable to disagree with that decision or  
2 unable to have certain issues addressed because they  
3 want to just simply refer to the LEA staff reports, and  
4 that they don't want to do an independent analysis, I'm  
5 just wondering, you know, what's the point of having  
6 this Board? And hopefully I'll get to learn more about  
7 those things.

8 We do thank you for your time today. We do  
9 thank you for giving us a time certain on the agenda,  
10 and I would be happy to answer any questions before I  
11 turn it over to Walter.

12 BOARD CHAIR MARIN: Thank you, Ms. Voltorno.  
13 Are there any questions?

14 (No response.)

15 BOARD CHAIR MARIN: Thank you very much.

16 MS. VOLTORNO: Thank you.

17 BOARD CHAIR MARIN: The next one would be  
18 Walter Rusinek. Mr. Rusinek.

19 MR. RUSINEK: Thank you, Madam Chairman and  
20 members of the Board.

21 I hope everybody took a good look at what would  
22 be lost if this permit is approved, which is what the  
23 last slide showed.

24 But I would like to get to some of the specific  
25 issues, and we've talked about some of these previously,

1 there's been comments made about them, I know there's  
2 been a large staff report that's been provided without a  
3 lot of time to comment on that. There are numerous  
4 issues to comment on, some of them may not be addressed  
5 here, but I think they've all been addressed in previous  
6 comments.

7 I noticed in the staff report that came out on  
8 this issue of how the land use approvals are to be  
9 looked at by the Board. And the conclusion was that as  
10 long as the land use approvals are provided to the Board  
11 that is it, that is in compliance with 27 CCR 21685, and  
12 that the Board does not need to determine whether or not  
13 the proposed projects meet those land use criterion and  
14 land use approvals.

15 I think that's a very narrow view of what the  
16 rule requires. And beyond that, even if that's the  
17 case, the problem here is that a lot of the, of the  
18 elements of the project, and we've talked about these  
19 three specifically, the size of the project, the  
20 addition of an additional borrow area, and the use of  
21 the project's 1,313 required acres under Proposition C  
22 as mitigation for project impacts, are all conditions on  
23 the use of the project.

24 And some of those require, both their  
25 conditions on the use of the project that this Board



1 should look at; and secondly, they also are additional,  
2 additions to the project that require their own land use  
3 permits which have not been provided to the Board to  
4 review.

5           So even if the Board's authority only is  
6 limited to receiving these and never opening the  
7 envelope that they're in, they have not received those.

8           And the other point that we made is that  
9 Proposition C has been incorporated as terms into the  
10 permit. And if it is in violation of Proposition C, the  
11 project is in violation of Proposition C, then at the  
12 point the permit is approved the project proponent is in  
13 violation of the permit. I don't think that that's what  
14 the Board's role is either.

15           I also wanted to point out the fact that at  
16 this time there are existing zoning violations on the  
17 property. A number of citations have been issued by the  
18 county since May of 2003 that have both required the  
19 Gregory Canyon Limited to remove materials from the  
20 property, penalties have been issued, and we're not  
21 aware of any response that has ever been made by Gregory  
22 Canyon.

23           In fact, the county now has filed liens on the  
24 property to secure the penalties that they are seeking.  
25 This in itself shows that the current site is not in

1 compliance with the land use approvals, and so it  
2 violates 21685 and should be rejected on that grounds.

3           The other thing it clearly shows is what  
4 happens when this site is operating and there's some  
5 enormous issue when there's, when there's need to comply  
6 with the permit? Here's the situation where a series of  
7 five citations issued since May of 2003 have simply been  
8 ignored. And this does not bode well for this Board  
9 approving a permit for a company that comes in and  
10 simply ignores the county.

11           I know that the, at this point we've got also a  
12 situation where we've got an LEA and a project applicant  
13 that are pretty much one and the same. And I have  
14 concerns both on the side of the project applicant  
15 ignoring what the county says, and on the LEA as far as  
16 enforcing the project.

17           I will note that in the permit the mitigation  
18 measures required by CEQA in certain instances require  
19 that the LEA do field surveys to ensure compliance with  
20 those measures.

21           What the LEA has done in this permit is they've  
22 removed that requirement and have just said, "Well send  
23 us a letter and we'll see. If you send us a letter  
24 we're fine with that." I think this raises significant  
25 issues with the project.

1           We have also raised questions about the  
2   inadequacy of the financial assurance documents  
3   provided. 27 CCR requires a quote "current  
4   documentation of financial assurance be provided." Our  
5   understanding is that the reliance for closure, post  
6   closure, and corrective action costs are based on a June  
7   1st, 2001 trust agreement. That trust agreement is over  
8   three years old, per se is not current.

9           But more importantly, if you look at what the  
10   numbers are listed in that trust agreement, and you can  
11   see them set out on the screen before you, the numbers  
12   estimating the costs of closure, the cost of post  
13   closure, and the cost of corrective action are far below  
14   those estimates that are provided in the joint technical  
15   cock.

16           We would question some of the costs in the  
17   joint technical document as being underestimated as  
18   well. But just the mere fact that the trust agreement  
19   does not meet the estimates in the joint technical  
20   document means that it's inadequate and it's a basis for  
21   objecting to this permit today.

22           I know that the recent staff report has said  
23   that everything is fine and dandy with this. I don't  
24   know how they come to that conclusion. And we pointed  
25   this out in previous comments which appear to have just

1 been ignored.

2           The notice of foreclosure was also raised  
3 before. We want to make sure that everybody understands  
4 that this is a \$10 million loan. And I know that the  
5 project proponent essentially said, "Oh, we'll take care  
6 of that." This is owed to numerous investors through a  
7 loan issued by La Jolla Loans, Inc.

8           The prospectus for that loan, which was dated  
9 January 4th, 2003, states that the quote "certified EIR  
10 will be fully approved and backed by the county of San  
11 Diego." At that point there had been no certified EIR,  
12 so I was interested to see that this predated by a month  
13 the decision to certify the EIR.

14           And there's also information in that prospectus  
15 for the loan that states the lessee will be Waste  
16 Management, Inc. Waste Management has denied any  
17 involvement.

18           So essentially we have a situation where  
19 investors are being brought into a project and there's  
20 questionable issues being raised by the prospectus, and  
21 now there's a default on the property. And it calls  
22 into question the financial viability of the company for  
23 which is seeking this approval of this permit.

24           There's also an issue raised and comments made  
25 on our comments regarding the limits on liability that

1 are provided in the solid waste permit. And I think the  
2 tack that county counsel took is that, oh, no, this  
3 actually expands the liability. But let's look at the  
4 language.

5           This is with respect to quote "Foreign or  
6 imported water in the Pala Basin." And it limits the  
7 liability of the operator to remediation of a maximum of  
8 17,694 acre feet of water. And only if that water is  
9 being used within the Pala Basin. If it's being  
10 transported out of the basin, then there's no  
11 liability. There's, there's -- it only applies, this  
12 is, they only have liability for foreign water if it is  
13 going to be used within the Pala Basin.

14           That provision also states that remediation  
15 would not be required if it is not "Technically or  
16 economic feasible." Those are not limits that should be  
17 put into a permit. This provision I know was partly  
18 brought out of the agreement that the proponent has made  
19 with the San Luis Rey Municipal Water District, it is  
20 not proper in this permit, it is not limited to, in a  
21 contract sense to the municipal water district, but it  
22 applies to all water. It's also another reason why this  
23 permit is improper.

24           I know that issues have been raised in the  
25 staff report regarding this source of water. As we

1 know, the joint application form requires that the  
2 source of water be identified on that joint form. The  
3 applicant checked, "On-site wells will be used."

4 We know at this point, and the Board has to  
5 consider that right now if you approve this permit they  
6 can go out tomorrow and start this project. They may  
7 need other permits, but you can't think that way. This  
8 is, and this argument has all been made here, "Oh, we  
9 need other permits," but you can't think that way.

10 This permit is being approved and there should  
11 be some proof of what source of water will be used. And  
12 that joint application form, if it's going to be another  
13 source than on-site wells should have been checked that  
14 way. Otherwise it is not an appropriate application.

15 They have no permit to pump water from the Pala  
16 Basin which requires a permit to appropriate as if it  
17 was surface water based on a decision by the State Water  
18 Resources Control Board.

19 They, the staff report and the proponent talks  
20 about getting water from the San Luis Rey Municipal  
21 Water District, but that district has no authority to  
22 sell water, there's no infrastructure for them to sell  
23 water to the project.

24 If they are actually going to pump water from  
25 fractured bedrock, two things, there's not a good supply

1 of water from that fractured bedrock aquifer.

2 And secondly, if they're going to do that they  
3 need to say now so that we can ensure that it does not  
4 somehow impact the groundwater monitoring system by  
5 causing cones of depression, etcetera.

6 Finally, if it's going to be trucked, it should  
7 be stated as such. I think this is another reason to  
8 object to the permit.

9 We've talked about this perimeter drainage  
10 channel and raised that issue. I notice that the, one  
11 of the comments by the, in the staff reports states  
12 that, "The staff reviewed recently submitted revisions  
13 to the regional board portions of the joint technical  
14 document." I'm not sure what that refers to.

15 The LEA takes the position that the authority  
16 over these perimeter drainage channels lies solely with  
17 the regional board, but this Board has the duty and  
18 obligation to ensure that drainage control is adequate  
19 to prevent washout of waste. The F -- the Final  
20 Environmental Impact Report states that this perimeter  
21 drainage channel is sized for a hundred year storm event  
22 and the simultaneous rupture of these aqueducts that we  
23 just talked about, the county water authority  
24 aqueducts. And yet the joint technical document states  
25 that construction of that channel in the desilting basin

1 that's supposed to be used to monitor water as it's  
2 coming out of the landfill footprint will not begin  
3 until during the phase two excavation.

4           During the phase one excavation it's very  
5 unclear from the joint technical document how much will  
6 be disposed during that period because it's got a lot of  
7 kind of hidden little ambiguities in it. But we would  
8 assume it's probably a million acres or so, a million  
9 tons or so.

10           And so you have a situation where it's not  
11 clear how this is going to be handled. And if you  
12 recall what that landfill looks like -- and in fact,  
13 let's go to the next slide. This might not be very easy  
14 to see, but this is one of the drawings in the joint  
15 technical document. You can see where the landfill  
16 footprint is there. This is the area that will be  
17 filled during the phase one excavation.

18           Of course, the joint technical document drawing  
19 has this drainage channel already installed, it has also  
20 has the desilting basin installed, even show the text  
21 says that it would not be in at this point, which is  
22 just one of the many conflicts between those, those  
23 documents, between that document and internal conflict.

24           But the issue is how is drainage going to be  
25 controlled coming off of that side of the landfill, and



1 how is it going to be controlled if that aqueduct  
2 explodes during that period and we have, we have that  
3 simultaneously with a hundred year storm event?

4 We've talked about the issue of the unmitigable  
5 significant impacts. I think that these have all been  
6 addressed, and I think the bottom line is that there is  
7 no benefits that this project outweighs.

8 But let's go back to this issue of what happens  
9 with the solid waste disposal criteria in the siting  
10 element. This is what the language is from, the rules.

11 "No solid waste disposal facility  
12 in the siting element shall be  
13 established that does not satisfy the  
14 minimum criterion that are adopted in  
15 the siting element pursuant to Section  
16 18 --" etcetera.

17 The argument has been made that Proposition C  
18 said that these siting criteria don't matter. I don't,  
19 there's clearly nothing in Proposition C that says that,  
20 and there's no reference to Proposition C in the siting  
21 element.

22 This language is fairly clear. Even if it is  
23 in the siting element, it can't be established if it  
24 doesn't satisfy the minimum criterion.

25 I think county counsel up here today indicated

1 that he agreed that there are issues with compliance  
2 with those criteria, and we've pointed out the three.  
3 It's clearly that this is all admitted in the  
4 environmental impact report, there will be a taking of  
5 endangered species, it is within a thousand feet of a  
6 site eligible for the National Historic Register, and it  
7 clearly is located within 200 feet of the aqueducts.  
8 And so unless those issues are resolved in some way,  
9 this site violates this Board's own rule.

10 The fact that those criteria may be changed in  
11 the new draft siting element has nothing to do, that has  
12 not been approved by the various entities in San Diego  
13 County.

14 There was also a chart, and if you want to  
15 refer to that chart maybe I can make some comments on  
16 that that was provided by Ms. McNeil regarding this  
17 capacity issue.

18 I think probably the most telling point on that  
19 chart that we saw was that Gregory Canyon doesn't  
20 provide much. You saw that line drop precipitously  
21 after three or four years, and the question being, are  
22 the impacts that this project will cause great enough to  
23 allow a project to go forward that will provide that  
24 little of capacity?

25 Clearly you're going to need other options for

1 dealing with this problem. And the Sycamore facility  
2 when it is expanded, and it's going to have to be  
3 expanded, Gregory Canyon is not going to provide enough,  
4 will provide time to address other issues. As we  
5 discussed, recycling itself, just an increase in ten  
6 percent recycling will give four to six more years of  
7 disposal capacity.

8 I also wanted to clarify this issue about what  
9 the fifteen year rule is. And that is that it applies  
10 to total capacity in the county and not to annual  
11 permitted capacity. So when that -- and that is based  
12 on the Integrated Waste Management Board's own  
13 guidance. When you look to see if you're meeting the  
14 criteria required by the statute, it's fifteen years of  
15 capacity clearly with a number of the additional  
16 landfills and expansions of the landfills they would  
17 meet the fifteen year capacity without Gregory Canyon.

18 We believe that the no project alternative is a  
19 feasible alternative to this project. The no project  
20 alternative discussed in, in the EIR essentially said,  
21 well, there will be no project and nothing else is going  
22 to happen.

23 What never happened in the EIR was a valid  
24 discussion of other options other than building this  
25 landfill to deal with additional capacity, which would

1 have been through expansion, through recycling, and  
2 through other methods.

3 And this Board can look at this and say, if  
4 this project is not built, is it feasible that other  
5 projects will be there or other methods will be used in  
6 order to achieve the capacity that we require in the  
7 county? And I think that is clearly the case.

8 The FEIR admits that the project is feasible,  
9 but the LEA rejected it based on this issue of  
10 additional capacity and on the vehicle miles traveled  
11 analysis, which I think Mr. Erbeck admitted is very  
12 speculative at best. So the EIR itself had very little  
13 to persuade the LEA that the no project alternative was  
14 not the proper alternative.

15 We've talked about these issues before, the  
16 fact that the permit conditions differ from the  
17 mitigation and monitoring reporting program requirements  
18 in CEQA.

19 We believe there are inadequate conditions to  
20 assure that the 1,313 acres of open space is provided,  
21 and these other issues that we've talked about here  
22 previously.

23 And we have also argued and believe that the  
24 JTD was not complete and correct, and that is a  
25 requirement for the submission and for this Board to not

1 object, I firmly believe that the conceptual designs  
2 provided at this point when the permit is going to be  
3 issued and this project can go forward are entirely  
4 inadequate.

5           The source of water we've talked about.

6 On-site cover availability is an issue because the  
7 borrow area B should not be provided.

8           I will note that in one of the submittals there  
9 was the argument made that borrow B was added after it  
10 was determined that this site would not be excavated as  
11 deeply. That's misleading and, in fact, that's untrue.

12           The EIR till the very end had this site digging  
13 out below the level of groundwater and it contained  
14 borrow area B. It's unclear where borrow area B came  
15 into the process, but it's been in the process the whole  
16 time.

17           And the last issue -- I see you're boring  
18 there, if you see that.

19           There's no discussion in this permit about  
20 what's going to happen if there's a flood on the San  
21 Luis Rey River. There's only one access to this  
22 project, and that access is across a bridge that the JTD  
23 acknowledges will be only two or three feet above the  
24 high flow of the water during a hundred year flood.  
25 What if there's a 200 year flood? They do happen. What

1 happens during that period, do they close the landfill?

2 What if there are trucks on that bridge? These are  
3 issues that were never addressed and raise serious  
4 concerns for the protection of the San Luis Rey River.

5 For all of these reasons, on behalf of the Pala  
6 Band we believe that the Board should object to this  
7 permit, get it right if it's going to come back, but we  
8 think it should go away.

9 Thank you for your time.

10 BOARD CHAIR MARIN: Thank you, Mr. Rusinek.  
11 Are there any questions for Mr. Rusinek? No questions  
12 for him?

13 (No response.)

14 BOARD CHAIR MARIN: Ms. Joyce Ward.

15 MS. WARD: Good afternoon, Madam Chair and  
16 Board members. Thank you very much for taking me out of  
17 order, I've had a death in the family and must catch a  
18 plane out of state.

19 My focus for the last ten years has been the  
20 protection and to save the San Luis Rey River from  
21 inappropriate polluting and industrial development, and  
22 I would take exception with the staff report calling it  
23 a disturbed stream.

24 First, it is my belief that this project does  
25 not meet the state minimum standards, why else would it

1 require a finding and a Statement of Overriding  
2 Considerations?

3 Secondly, the County of San Diego has chosen,  
4 and incorrectly we think, to interpret the state's  
5 directive to identify fifteen years of capacity. They  
6 further narrowed that to be located within the county.  
7 What they should have done was, under the regulation is  
8 to identify a fifteen year strategy for waste disposal.  
9 That is the actual requirement.

10 Needless to say, there is a drastic difference  
11 between the two approaches. The chart used by Mr.  
12 Erbeck lacked any increase in recycling and expansion of  
13 Sycamore.

14 The increase in recycling in San Diego was  
15 required by this Board to meet 50 percent, they are  
16 currently, I'm told, right at that. Well, the expansion  
17 is only the phase two of Sycamore. Sycamore was  
18 permitted as a three phase project, they're still in  
19 phase one. Phase two they have started the process to,  
20 for that expansion, and there is still phase three, that  
21 is also not reflected on that chart.

22 Further, it is a futuristic document and a look  
23 into the future. And if you simply state that you're  
24 going to use what we've got now and I can't deal with  
25 anything else, then why do you bother? Why are you

1 looking into the future if you are not going to change  
2 anything or make any additional efforts in the recycling  
3 area?

4           Additionally, only in the past few months has  
5 the largest population center in the county, the City of  
6 San Diego, begun curbside recycling. That is going to  
7 make a huge impact on the waste stream for the county.  
8 That's where all the people are.

9           I would quote from your agenda item 30, page  
10 twelve quote,

11           "The Statement of Overriding  
12           Considerations include reference to  
13           the siting element of the County  
14           Integrated Waste Management Plan.  
15           Staff's analysis of the Initial  
16           Statement of Overriding Considerations  
17           led staff to conclude that the  
18           environmental impacts of the proposed  
19           landfill were so substantial that  
20           achieving fifteen years of disposal  
21           capacity, a portion of which would be  
22           in northern San Diego County, would  
23           have been an insufficient basis for  
24           approving this landfill and overturning  
25           the fundamental policy of the State of



1 California, of protecting the  
2 environment, and the fundamental  
3 obligation of each local enforcement  
4 agency 'to ensure that primary  
5 consideration is given to protecting  
6 public health safety and preventing  
7 environmental damage, and that  
8 long-term protection of the environment  
9 is the guiding criterion' in issuing  
10 solid waste facility permits."

11 With the proposed expansion of Cal -- the  
12 Sycamore Canyon Landfill, the in-county physical  
13 capacity is beyond 2020. These figures do not include  
14 the increases in recycling that have significantly  
15 reduced the landfill waste stream further lengthening.

16 BOARD CHAIR MARIN: Okay, we have that document  
17 and we have read it. Make your point Ms. Ward, please.

18 MS. WARD: Since the inception of this document  
19 there have been no other major changes. There have been  
20 other changes -- excuse me -- in the waste disposal in  
21 county as well.

22 The transfer station since the sale of the  
23 solid waste facilities to the, a private Allied Waste,  
24 the transfer station has been expanded considerably, and  
25 they have a 30 percent capacity right now that's not

1 being used. In other words, they're only operating at  
2 70 percent capacity.

3 Further, the Sycamore Landfill is the most  
4 centrally located within the county and was the three  
5 phase project as I had mentioned.

6 Also, as was mentioned here, although in the  
7 P&E Committee Mr. Miller said he knew of nothing about  
8 Miramar, there is talk of expanding Miramar past the  
9 2011 closing date.

10 Gregory Canyon is not centrally located in  
11 North County. In truth, it is much closer to Temecula  
12 of Riverside County, probably eight or nine miles away,  
13 and it is close to twenty miles away to Escondido, the  
14 largest and closest population center in North County.

15 This project threatens Oceanside because they  
16 have \$40 million of taxpayer money, that's federal,  
17 state, and local money invested in their  
18 infrastructure. That is why they oppose this. It's a  
19 monetary thing.

20 The city of Carlsbad has an agreement, as Mr.  
21 Hutton also agreed, that is long term, is not going  
22 there.

23 For economic viability Gregory Canyon has to  
24 seek out-of-county trash.

25 Additionally, I have had some things passed out

1 to you that were from the Fallbrook planning group in  
2 just this weekend's Sunday paper. There have been  
3 incredible changes to the land use in the immediate area  
4 of Gregory Canyon since 1999 when the EIR was done.

5 The dump entrance is to be three and a half  
6 miles from I-15 on SR 76. Right now, as I'm standing  
7 here, they are currently building 250 new homes  
8 immediately to the south side of the river in a place  
9 called Lake Rancho Villa Hills.

10 But even more sobering are the following  
11 projects that are in the pipeline: They include 2,994  
12 dwelling units, two elementary schools, a town center  
13 complex, highway commercial buildings, office and  
14 commercial areas, and a satellite campus of a junior  
15 college. That is within the first mile between I-15 and  
16 the dump entrance. These are all -- and they all have  
17 their access off of Highway 76.

18 I refer you to those stories entitled, "Area  
19 Traffic Deaths Up," and the other one, "Developers Look  
20 to Build at Highway 76 Interstate 15 Intersection,  
21 Ambitious Plans Include over 2,000 Homes on a Thousand  
22 Acres."

23 How can you approve a permit when all of this  
24 information is brand new and the information you're  
25 acting on is four years old?

1           And in conclusion, I would like to say as far  
2 as Proposition B and Proposition C go, twice the State  
3 Assembly and Senate passed bills that would have stopped  
4 this project, the elected officials from the entire  
5 state.

6           And I would remind you that for many years  
7 voters denied women the right to vote. The people  
8 spoke.

9           Fifty years ago voters overwhelmingly denied  
10 Mr. Washington's children an opportunity to attend  
11 school with mine. Again, the people spoke.

12           Only the action of elected and appointed  
13 officials resulted in justice. And this Board needs to  
14 accept its responsibility and do the same.

15           Thank you very much.

16           BOARD CHAIR MARIN: Thank you, Ms. Ward.

17           The next person would be Everett Delano from  
18 River Watch.

19           And then following him would be Sheila Manning,  
20 also from River Watch.

21           MR. DELANO: Good afternoon, Everett Delano  
22 from River Watch.

23           I'm not going to repeat the letters that I've  
24 sent to you, I wrote you a letter, I know you received  
25 it, regarding this Board's authority.

1           I also wrote a letter regarding the failure of  
2 this site to meet five siting element criteria, not  
3 three.

4           And I wrote you another letter, this is all in  
5 the last week or so, asking that, actually I think you  
6 ought to be holding a hearing in the vicinity of the  
7 project site as opposed to up here in Sacramento. If  
8 you want to get a sense of what people feel, that would  
9 be a good thing to do. I won't repeat those requests or  
10 those letters here.

11           I also won't repeat because I understand that  
12 those of you who were not at the P&E Committee have had  
13 a chance to review our testimony and, therefore, I won't  
14 repeat what I said at that hearing.

15           I do want to respond, however, to a couple of  
16 things that I have received recently. First of all, I  
17 received actually two staff reports late yesterday, one  
18 of which was mentioned is in the back of the room, I did  
19 not see the other one mentioned in the back of the room,  
20 however. They were responses, I believe, from,  
21 supposedly from this Board's staff. I'm going to talk  
22 about that in a second. But supposedly from this  
23 Board's staff to questions that were raised at the P&E  
24 Committee.

25           And second, I want to respond, in fact, I want

1 to do that right now, respond to a couple of things that  
2 counsel for the LEA and the applicant had stated a few  
3 minutes ago. In essence the counsel said two basic  
4 things, one, the EIR is fine and you need to presume it  
5 to be fine. And secondly, you don't have much authority  
6 to do anything else anyway.

7 And I want to take issue with that at two  
8 levels. First of all with regard to the EIR, I am, by  
9 the way, the attorney who represents the other side,  
10 those who were challenging the EIR for very valid  
11 reasons.

12 Let me just say I've done a lot of CEQA cases  
13 and one thing that's very clear, quantity doesn't make  
14 quality, those two are totally unrelated.

15 We have a record of decision in this case  
16 that's over a hundred thousand pages in reality, that  
17 doesn't make it good, it just makes it big, it makes it  
18 difficult to review.

19 But yes, while there may be a presumption that  
20 the EIR is valid, it doesn't mean the EIR is valid. And  
21 you have a number of reasons and a number of comments  
22 submitted to you and a number of reasons to take issue  
23 with many of the statements in the EIR.

24 First of all, and more importantly, there needs  
25 to be substantial evidence in the record to support your

1 decision, to support the findings to support the EIR.

2           There's a lot of problems with the evidence in  
3 the record in this case, and there's certainly, I have  
4 some serious problems with a couple of things in your  
5 most recent staff reports which I want to get to in a  
6 second.

7           But finally, with regard to this Board's  
8 authority, I think Mr. Rusinek did a good job of  
9 describing and putting up on the screen many of the  
10 aspects of your authority that you have.

11           I want to just identify one other thing which  
12 he didn't mention and which I mentioned at the P&E  
13 Committee, which is that you also have authority under  
14 the state minimum standards. And for the reasons that I  
15 mentioned there I won't go into again, or I take issue  
16 with staff's analysis of this project's meeting those  
17 standards.

18           But let me say at a fundamental level what I'm  
19 extremely concerned about is that I see staff's  
20 responses to your, to the questions of the P&E Committee  
21 as being prepared essentially by the attorneys for the  
22 applicant, and really indicating in my mind a sense of  
23 prejudgment of a decision.

24           I was extremely appalled to see some of the  
25 statements in there. To describe the process that led

1 to a complete breakdown with the Pala Band of Mission  
2 Indians and with the other Luiseno Indians who are  
3 concerned about this site, to describe that  
4 environmental justice process as remarkable was in and  
5 of itself a remarkable statement. I cannot imagine how  
6 one can essentially place trash next to sacred sites and  
7 treat that as remarkable.

8           Secondly, with regard to a discussion about the  
9 no project alternative, there was discussion in the  
10 staff report that apparently it really doesn't matter  
11 whether there's a no project alternative because there  
12 was sufficient consideration of it. That is really, in  
13 reality, a red herring in my mind.

14           The issue is, are there alternatives, no  
15 project or otherwise? I don't care, maybe I should say  
16 it's semantics, because whether it's no project or not,  
17 the issue is are there alternatives available to the LEA  
18 and available to this Board that can address the  
19 issues?

20           I think, for the reasons that you've seen,  
21 there are alternative strategies. In fact, in the, in  
22 your staff reports first report they identified waste  
23 reduction and new technologies can be a part of that  
24 solution. Those are alternatives that are available to  
25 you for your consideration.



1           And so whether we call it a quote no project  
2 alternative or an alter -- or another alternative really  
3 is beside the point. The point that matters is that you  
4 have considered whether there are other options out  
5 there, and taken steps to address those options.

6           Our point, consistently you're hearing from the  
7 opponents on this, is that no, that has not happened,  
8 that there needs to be an actual on the ground  
9 consideration of what the options are, and that once you  
10 do that you will see that this project is simply, its  
11 environmental impacts are simply outweighed.

12           In addition, and the staff report raises some  
13 of these issues for the first time, the issue about  
14 noise and the issue about traffic and in some other  
15 areas. There's a deferral of mitigation here which is  
16 also again a violation of CEQA to do that. If you're  
17 going to have mitigation requirements, those need to be  
18 made up front and now and not at some time in the future  
19 to be decided what they are.

20           Finally, I just want to identify one, a  
21 critical piece to this here. We are talking, as that  
22 chart pointed out, the one that was brought up by LEA  
23 staff, about a relatively small amount of additional  
24 capacity in the big picture. In a sense you might say  
25 why are we complaining so much about it, this is really

1 a small landfill. In a sense that is correct, this is a  
2 relatively small piece of the total puzzle here, I think  
3 even Mr. Erbeck identified that. But the problem is  
4 that not every location is the right location for a  
5 landfill. This location for the reasons that are  
6 discussed in the EIR and for the reasons that have been  
7 discussed elsewhere, is not simply not the right  
8 location for it. For that reason we request that you  
9 object to the permit.

10 Thank you.

11 BOARD MEMBER MOULTON-PATTERSON: I have --

12 BOARD CHAIR MARIN: And just for the record,  
13 that remarkable comment, that was not provided by staff,  
14 that was somebody else provided that information.

15 MR. DELANO: Thank you.

16 BOARD CHAIR MARIN: Thank you. Okay. You must  
17 be Sheila.

18 MS. MANNING: That I am.

19 BOARD CHAIR MARIN: Thank you, Ms. Manning.

20 MS. MANNING: Good afternoon, Madam Chair and  
21 committee. Thank you for this opportunity to address  
22 the Board concerning the solid waste permit.

23 I'm Sheila Manning, I'm president of River  
24 Watch, a non-profit organization based in North County  
25 San Diego.

1 I've been a resident of San Diego County for  
2 thirty years. I'm a past elected Board member of the  
3 Rainbow Municipal Water District, a past Board member of  
4 the San Diego County Water Authority, where I served as  
5 the chair of the public information committee.

6 CEQA requires that a Statement of Overriding  
7 Considerations be supported by substantial evidence in  
8 the record. The applicant's Benefits Analysis simply  
9 does not provide the LEA with the required substantial  
10 evidence to support Statements of Overriding  
11 Considerations for this project.

12 One of the most significant tools at your  
13 disposal is your authority to choose whether or not to  
14 adopt the Statement of Overriding Considerations. You  
15 have the authority to consider impacts of the permit and  
16 feasible alternatives and mitigation.

17 In 1987, again in January of 1990, again in  
18 September of 1990, in December of 1990, and again in  
19 April of '92, local government, state, and federal  
20 regulators rejected the Gregory Canyon Landfill site.

21 In response to this rejection, proponents of  
22 the dump funded an initiative, Proposition C in 1994, to  
23 amend the general plan, zoning ordinances, and other  
24 ordinances and policies of the county of San Diego to  
25 allow the building of a dump if the project obtained the

1 required regulatory permits.

2           This process resulted in the avoidance of the  
3 normal process of consideration of more appropriate  
4 alternative sites for a dump. It is not the voters, it  
5 is you, as members of this Board, that are charged with  
6 the protection of human health and the environment,  
7 safe management of solid waste, including overseeing of  
8 waste management plans. It is your decision, good or  
9 bad, that we the public have to live with for  
10 generations to come.

11           Although there seems to be compliance with  
12 applicable statutes and regulations, this project, once  
13 closely scrutinized, discloses the landfill will cause  
14 five significant impacts that cannot be mitigated.

15           They are the noise and vibration, the ethno  
16 history, Native American interests, project and  
17 cumulative impacts on traffic, air quality with dust,  
18 and aesthetics.

19           CEQA authorizes a public agency to disapprove a  
20 project, if necessary, to avoid significant impacts that  
21 the project would cause. And please keep in mind, the  
22 Statement of Overriding Considerations was developed and  
23 adopted by a non-elected body. There has been no  
24 adoption by a local body of elected officials.

25           The LEA staff analyst supports and agrees with

1 many of the criticisms made by the opponents, and most  
2 importantly, that the Benefits Analysis relies on  
3 outdated and obsolete information.

4 Will North County cities use the landfill? I'm  
5 not going to repeat all of that. You have heard that  
6 that's probably not going to happen.

7 What of the fiscal impact? The proponents  
8 admit the landfill would employ only twenty full-time  
9 employees, and result in approximately \$250,000 a year  
10 in business to business benefits. The county staff  
11 stated they could not verify the specific information as  
12 to benefits, and they had clear and serious concerns  
13 about the validity of economic benefits claimed by the  
14 proponents.

15 There is no doubt that SR 76 is a dangerous  
16 road. Please be aware there's no assurance that the  
17 million dollars for safety improvements on this road  
18 will actually be used at the project. There's no  
19 written agreement.

20 And what of the taxpayers? Normally when a  
21 landfill is privatized a franchise agreement is entered  
22 into between the property owner, the operator of the  
23 landfill, and the local municipality. The leverage for  
24 this franchise agreement is the land use approval to  
25 allow the landfill to operate at that location.

1            Proposition C has taken the county out of the  
2 loop. Franchise agreements go beyond providing simply  
3 for services, they include franchise fees paid to the  
4 municipality to cover costs associated with the  
5 ancillary duties, and compensation for the right to  
6 receive the trash from the cities.

7            But more importantly, they provide the  
8 municipality the ability to require monitoring  
9 activities above and beyond those minimal state  
10 standards required by the Integrated Waste Management  
11 Board. These are the important safeguards to protect  
12 site specific resources.

13           Because Gregory Canyon was approved through  
14 Proposition C, there is no franchise agreement, no  
15 franchise fees paid, no ancillary activities undertaken,  
16 and importantly, there's no additional monitoring that  
17 can be required by the county.

18           There are opportunities for alternative land  
19 use at Gregory Canyon site. The site is 1,770 acres,  
20 that could be extremely valuable as a conservation bank  
21 providing the owners habitat species credits to sell.  
22 Conservation banking offers a range of opportunities and  
23 is considered a market enterprise where landowners can  
24 profit from selling habitat and species credits to  
25 parties who need to compensate for environmental

1 impacts. And in San Diego County, \$18,000 an acre is  
2 being paid to landowners. If this property were to be  
3 sold, it would generate over \$32 million.

4 You have the right to object to this permit on  
5 the violation of solid waste permitting regulations.  
6 This permit fails the pass fail criteria of the county  
7 adopted integrated waste management plan.

8 The siting element states quote unquote, "If a  
9 candidate site doesn't pass the eight pass fail criteria  
10 in the initial phase of the siting study, it will be  
11 dropped from further consideration."

12 You must reject this permit due their failure  
13 in threatening endangered species, historic and  
14 archeological preservation, distance from a major  
15 aqueduct, incompatible land use, and the aquifer.

16 By following your strategic plan which is  
17 designed as a map for the future, empowering you to  
18 preserve California's resources for generations  
19 combined, combined with your own vision statement, this  
20 will certainly lead you to object to the proposed  
21 permit. The benefits of this project do not outweigh  
22 the significant unmitigated harms it will cause.

23 Thank you very much for your time.

24 BOARD CHAIR MARIN: Thank you, Ms. Manning.

25 Next would be either Guss Pennell or Barry

1 Martin, I don't know. You're both welcome to address  
2 the Board, I know that you have submitted the mayor's  
3 letter, Mr. James Woods, we received his letter.

4 MR. MARTIN: Honorable Chair, members of the  
5 Board, my name is Barry Martin, I'm the water utilities  
6 director for Oceanside. And yes, we submitted a letter,  
7 and the mayor wished to be here so badly, did have a  
8 conflict in his schedule, and the mayor was just elected  
9 as mayor, he was formerly a councilmember, so tomorrow  
10 is his first council meeting so he needed to be there  
11 today, but he really wanted to be here.

12 And the reason Oceanside is very concerned  
13 about this and our council has been very concerned,  
14 we've been concerned for fourteen years. I've worked  
15 for the city for over 33 years, I've been the water  
16 utilities director for seventeen of those years. I have  
17 dealt with this project for fourteen years. And to be  
18 honest with you, it scares the heck out of me.

19 Why does it scare the heck out of me? Well,  
20 Oceanside is lucky enough to have a water supply, a  
21 local water supply. In a desert, water supply? Do you  
22 know how precious that is? In a desert? You gotta  
23 remember Southern California is a desert and we're  
24 facing unprecedented drought in the southwest.

25 We're very concerned that this water supply



1 will become contaminated because you've picked up the  
2 papers, you've read about Southern California, Orange  
3 County, Los Angeles County having to shut down wells  
4 because of perchlorate contamination and other  
5 contamination.

6           We do not want to face this in Oceanside  
7 because Oceanside has used this water supply for close  
8 to a hundred and fifty years. It's a precious water  
9 supply. It's not only that Oceanside is benefiting from  
10 this water supply, it is an assistance to this whole  
11 region, the San Diego County Water Authority.

12           I have another hat, I sit on the San Diego  
13 County Water Authority Board, and this landfill has been  
14 very controversial down there. And the reason is  
15 because everybody realizes that the water that's  
16 produced in the San Luis Rey Basin is water that  
17 Oceanside is able to use, and other agencies are able to  
18 use out of that basin, allows the imported pipeline, the  
19 imported water that comes in to the county to be used  
20 elsewhere. So it's a major component.

21           Just last month the San Diego County Water  
22 Authority presented us a staff report, a presentation on  
23 the years of work they've done in looking at the San  
24 Luis Rey Basin. And the San Luis Rey Basin, according  
25 to all their studies, looks to be a very viable source

1 to store imported water in the future. In fact, in that  
2 presentation it showed the Mission Basin, which is most  
3 of Oceanside, and the Bonsell Basin. Well by golly,  
4 right across the street on Highway 15 is Gregory Canyon,  
5 in close proximity to an area where the water authority  
6 is looking at injecting imported water.

7           So we're very, very concerned about our water  
8 supply. Again, we've used it for over 150 years. It's  
9 an emergency source of water for us. The aqueducts that  
10 come into the county cross over major faults, you've  
11 heard of the Elsinor fault. If they're to be severed,  
12 Oceanside could fall back on this water supply.

13           So again, this is a controversial project, and  
14 I feel so sorry for you folks up here in making this  
15 decision you have to make. But think of the 175,000  
16 folks in Oceanside that depend upon you to really turn  
17 this permit down.

18           Thank you very much.

19           BOARD CHAIR MARIN: Okay. Thank you.

20           Mr. Pennell, do you wish to address or -- yes,  
21 he does.

22           MR. PENNELL: Very briefly.

23           BOARD CHAIR MARIN: I was going to say take  
24 your time, but not really.

25           MR. PENNELL: Thank you, Madam Chairman,

1 members of the Board. Barry Martin has touched on  
2 everything I thought about saying as well as everybody  
3 else with the exception that Oceanside wants to go on  
4 record that we will not use the landfill. That's been  
5 stated several times, and we are committed to not using  
6 the landfill if it does go in.

7           And that's true that Carlsbad has a ten year  
8 contract to use Allied Waste and they're not going to be  
9 using the landfill as well.

10           And I understand that several of the coastal  
11 cities belong to a regional solid waste facility as  
12 well, and they go out to bid every now and then to  
13 determine where they're going to be hauling their  
14 trash. I don't see how Gregory Canyon, with the  
15 complexity of the stuff going in, is going to be able to  
16 compete with Sycamore and Otai where they currently haul  
17 their trash.

18           So with this being a North County landfill,  
19 it's not going to be North County's trash. I don't know  
20 where they're going to find their trash, but it's not  
21 North County.

22           And I doubt San Diego is going to be hauling  
23 trash all the way to North County when they have their  
24 own facilities. So you answer the question that way, it  
25 looks like a Riverside trash or an L.A. trash.

1           But that's all I have to say and I hope you  
2   make a great decision.

3           Thank you.

4           BOARD CHAIR MARIN: Thank you, Mr. Pennell.

5           Okay. The last speaker that I have a speaker  
6   form from is Cheryl Reiff, Sierra Club, San Diego  
7   chapter.

8           MS. REIFF: Thank you, Madam Chairman and Board  
9   members.

10          So, four endangered species, 35 threatened  
11   species, Golden Eagles nesting there since the thirties,  
12   steep slopes that haven't even been mentioned that could  
13   affect drainage and slippage, runoff into the dump,  
14   runoff out of the dump, just so many problems.

15          Sitting here listening to someone say that  
16   there's no CEQA concerns makes me feel like I've been in  
17   some kind of alternate reality. The last few  
18   presentations have been very refreshing.

19          Last week several representatives from San  
20   Diego County presented overwhelming health,  
21   environmental, archeological, geological, historical,  
22   cultural concerns regarding the permitting of this  
23   landfill and Gregory Canyon in San Diego County. Again,  
24   you heard more today.

25          We also tried to point out that from the time

1 of this initial proposal the public has been deceived  
2 and manipulated into supporting this ill-conceived  
3 project.

4 This Board has a duty to safeguard the  
5 environmental standards set forth for the public good.  
6 Facts, not politics, should determine the outcome. This  
7 should be a decision based on science.

8 This project has failed to meet almost all of  
9 San Diego's counties landfill siting criteria.  
10 Conditions exist which demand denial of the landfill  
11 permit.

12 In spite of Gregory Canyon being thrown out  
13 time after time in the process prior to Prop. C, in  
14 spite of the abundance of incontrovertible facts, great  
15 weight is being given to Prop. C by this Board, yet EPA  
16 is not bound by local jurisdiction and should be of  
17 higher scientific mind. Where is the science in this  
18 project or process?

19 Please consider how technical this decision  
20 is. Please consider that even this board of experts is  
21 having to ponder and investigate details before coming  
22 to a decision. How then can the decision be based on  
23 the results of a deceitful campaign voted on by a  
24 largely misinformed public.

25 I'd like to point out to you that our

1 initiative signature gathering process was record  
2 breaking. When people found out how Prop. C had been  
3 deceitful, they were very, very anxious and willing to  
4 sign our petition to get this matter on the ballot  
5 again.

6 But again, there was a deceitful campaign, and  
7 people were confused and misled. I presented brochures  
8 last time that showed how deceitful the campaign was. I  
9 also have, again, I included it in my initial packet  
10 that I sent last time, the statistics on landfill  
11 capacities that exist now, and they don't exactly agree  
12 with what you saw today.

13 I have an e-mail message that I could provide  
14 copies for you if you want, I do not have copies today,  
15 from one of our planning commissioners who states that  
16 we have sixty to eighty years at least capacity  
17 remaining. This disagrees with the statistics you heard  
18 today.

19 I submit to you also that the proposed Gregory  
20 Canyon Landfill is not the landfill that the public  
21 voted for. San Diego County voted for a landfill that  
22 would take care of only North County's trash, now you  
23 see that it may be hard for them to get North County's,  
24 even San Diego's trash. And yet they say they won't  
25 take out-of-county trash, and yet they refuse to accept

1 the condition that they can't have out-of-county trash.

2 That smells fishy to me.

3 Again, Prop. C advertised this as a recycling  
4 facility. People liked that, they wanted that, they  
5 thought this was a good thing, now there's no recycling.

6 The landfill proponents have also stated that  
7 traffic conditions and air pollution will be better  
8 because of this dump, and that kind of boggles my mind.

9 A landfill should be insured to protect the  
10 public from future catastrophe, and there's not really  
11 any insurance like that. There's, I believe the  
12 insurance is on the liner, and that's for a limited  
13 amount of time. There's nothing to provide for future  
14 cleanup or insurance in any way.

15 The risks far outweigh the benefits. The risks  
16 are to posterity, to not only the San Luis Rey River and  
17 aquifer and all the cities and communities and personal  
18 users of the groundwater, but it also affects  
19 potentially the aqueduct that goes to San Diego. And  
20 you heard testimony about that.

21 The dump was advertised as protecting open  
22 space and wildlife habitat. It does not. The mitigated  
23 area is insufficient, it's not the same habitat.

24 This dump does not respect nature, public  
25 health, history, or culture. The environmental justice

1 issues are just appalling. We're supposed to be making  
2 progress in that area, and this is just atrocious, it's  
3 disgusting. And I believe that we should definitely  
4 meet the 1,000 foot minimum criteria at least, I mean  
5 even that seems minimum to me. The disrespect is just,  
6 again, it's appalling.

7           So, the Sierra Club, San Diego Chapter asks  
8 that based on these irrefutable facts you deny the  
9 permit for a full solid waste landfill facility in  
10 Gregory Canyon. And please consider that the FEIR is  
11 not sufficient, it is being contested as well as the  
12 deceitful campaigns. Please do not base your decisions  
13 on these items, they need further investigation, and you  
14 need more facts.

15           Thank you.

16           BOARD CHAIR MARIN: Thank you. I have no more  
17 people that wish to address this Board.

18           I will go into questions from the members if  
19 there are any questions, if there is any deliberation.

20           Mr. Paparian.

21           BOARD MEMBER PAPARIAN: Yeah, I don't, if  
22 there's no questions, I wanted to explain what I'm  
23 planning to do.

24           BOARD CHAIR MARIN: Okay. Go ahead.

25           BOARD MEMBER PAPARIAN: We did hear a lot about



1 this project today. We have a lot of written material,  
2 and we have a lot of correspondence, and we heard about  
3 it last week in the P&E Committee, and all that is, I  
4 think, part of the record that we're all considering  
5 today as we make our decision.

6 A responsible agency must consider the  
7 environmental effects of the project as shown in the  
8 EIR. CEQA requires that a Statement of Overriding  
9 Considerations be supported by substantial evidence in  
10 the record.

11 It's clear that there is no need for Gregory  
12 Canyon, the project, and there are no benefits of any  
13 substance which in a reasonable person's judgment  
14 outweigh the severe and unmitigated environmental  
15 impacts of the project.

16 The significant environmental effects of the  
17 project include the proposal is not needed for San Diego  
18 County to meet its fifteen year disposal capacity  
19 obligation.

20 The project will irrevocably harm the cultural  
21 and religious types of the Luiseno tribes and their  
22 quality of life.

23 The LEA has found five significant  
24 unmitigatable impacts of the project; traffic, noise,  
25 air quality, aesthetic degradation, and adverse effects

1 on Gregory Mountain and Medicine Rock.

2 In my judgment these impacts are not outweighed  
3 by the social benefits.

4 Where the IWMB has more specific jurisdiction,  
5 the noise, traffic, dust, and vibration impacts of the  
6 proposed project will negatively impact public health,  
7 safety, and the environment, and do not outweigh the  
8 potential benefits of the proposed project.

9 The project will inhibit the progress of AB 939  
10 waste diversion efforts in both San Diego County and  
11 North San Diego County.

12 It may violate, as we heard, current land use  
13 conditions. And we heard about some other issues raised  
14 as well.

15 Also, as we have seen and as has come out in  
16 the record, there are feasible alternatives which, you  
17 know, really must be considered in this context.

18 So I am, you know, out of hundreds and hundreds  
19 of permits I've voted in favor of, there's a handful  
20 I've voted against, and this is being added to that  
21 list.

22 I'm going to have to vote not to adopt the  
23 LEA's Statement of Overriding Considerations, the  
24 Supplemental Statement of Overriding Considerations, and  
25 thus I would be voting no on the resolution that will be

1 coming before us.

2 BOARD CHAIR MARIN: Thank you, Mr. Paparian.

3 Is there any further discussion?

4 Ms. Moulton-Patterson.

5 BOARD MEMBER MOULTON-PATTERSON: If we're  
6 getting ready to vote I'd like to state, my reasons for  
7 objecting to this proposed permit are much the same as  
8 Mr. Paparian's, looking at the air quality, the traffic  
9 impacts, the noise impacts, the fact that Gregory  
10 Mountain is sacred to the Pala Indians.

11 I was on the first Cal EPA Environmental  
12 Justice Interagency Committee, and I couldn't in good  
13 conscience vote for this.

14 Plus, I am not convinced of the need for this.  
15 I think, whether that is reason or not, in my own mind  
16 I'm not convinced of it.

17 I also, you know, the argument can be made  
18 about the people have voted and everything, but as  
19 someone who's been involved in politics for many, many  
20 years, I know that propositions can be very confusing,  
21 and I know that sometimes a yes means no and no means  
22 yes, and so I, that is not really a factor in my voting.  
23 The other reasons that I mentioned are more important.  
24 But I do think that it is a little bit deceptive to say  
25 that 68 percent of the people want this.

1           So I will be objecting. And thank you very  
2 much to everyone for testifying today.

3           BOARD CHAIR MARIN: Thank you. Further  
4 comments?

5           Ms. Mule.

6           BOARD MEMBER MULE: Thank you, Chair Marin.

7           This is a very difficult decision for all of us  
8 as you well know. My understanding of this is that  
9 staff has indicated that they found the FEIR adequate.

10           They have also indicated that they have found  
11 the statement of, the Supplemental Statement of  
12 Overriding Consideration sufficient.

13           And I further understand that staff has  
14 indicated that the applicant has met all the state  
15 minimum standards.

16           I heard that the Environmental Impact Report  
17 public participation process was extremely thorough, and  
18 I just want to go on record as saying that I have  
19 dedicated practically my entire career to public  
20 participation, so I am very, very, it's very important  
21 to me. And from what I've heard today, it sounds like  
22 the process was very thorough over the years.

23           Furthermore, the voters have spoken, not once  
24 but twice, in 1994 and 2004. My understanding is that  
25 the Proposition B was prepared and written by the

1 project opponents, so I feel badly that there may have  
2 been some misunderstanding, but again, there was an  
3 opportunity for people to write something that was  
4 clearly understood by the voters.

5           And I know that a lot of money was spent on  
6 that campaign by both sides. I was in San Diego, I  
7 heard the radios, I saw the commercials, there was a lot  
8 of opportunity for public education on this issue.

9           I do know that the growth in San Diego County,  
10 there is a lot of growth that is occurring in North  
11 County, and as a matter of fact, these articles that  
12 were presented to us today indicate that. I lived in  
13 San Diego County in the early eighties and never dreamed  
14 that I would see this kind of development proposed for  
15 this area, but unfortunately it's coming, it's there,  
16 and we're going to need to address the solid waste and  
17 recycling needs of North County.

18           In addition, I think that, well I know that  
19 there's additional permits, there's a number of  
20 additional permits that are required by the Regional  
21 Water Quality Control Board, the State Water Resources  
22 Control Board, the Air Pollution Control District, among  
23 others.

24           So I feel that under our purview of authority,  
25 what we have jurisdiction over, I'm going to vote to

1 concur with this permit.

2 Thank you.

3 BOARD CHAIR MARIN: Thank you, Ms. Mule.

4 Mr. Washington.

5 BOARD MEMBER WASHINGTON: Thank you, Madam

6 Chair. Let me say that I want to attach myself to

7 pretty much the comments that Ms. Mule just made.

8 When you look at what we have before us, it's  
9 strange to me, and coming from the state legislature I  
10 have always had the belief that the, when the people  
11 speak, someone passed a note that says they passed 187  
12 and 209, was it right? And my response is that it's the  
13 law. That's the society we live in, it's a democracy.

14 And I do believe that these folks have, I came  
15 to this Board raising all type of concerns about public  
16 access, and I do believe that they have met the  
17 conditions of CEQA in terms of the public access, making  
18 sure that the committee knows. Those propositions, as  
19 Ms. Mule just stated, the articles that I've seen and  
20 all the campaigning and money that went out pro and con,  
21 to say that the people didn't understand what they were  
22 voting for, I just, I can't buy that.

23 And so, you know, a better world for all of us  
24 is to be able to vote on some of these things, that  
25 everybody would get along and everyone would agree to

1 work together and all those type of things, I wish it  
2 was like that, and I hope at some point that the two can  
3 come together and come to some agreements to fix some of  
4 the issues that you probably can fix rather than going  
5 to a ballot, going to court or any otherwise.

6 I just don't believe our Board has the  
7 authority not, when the staff and the LEA and all those  
8 folks have said that, that we've met the requirements,  
9 that this Board has met those requirements, that we're  
10 not prepared to do so.

11 And so I'll be supporting it likewise with the  
12 understanding and hope that we could work out something  
13 where the better world is the Pala Band of Indians don't  
14 want it there period. The River Walk -- Watch don't  
15 want it there. I mean now you could probably bring in a  
16 thousand more people who don't want it there. But we  
17 have to make a choice here, and so I'll be supporting  
18 that, Chair.

19 BOARD CHAIR MARIN: Thank you, Mr. Washington.

20 I will just state for the record it's very  
21 difficult, you know, I know that this has been going on  
22 for a long time, and I made my comments during the  
23 committee meeting, but just for the record.

24 As we understand it, the permit as is presented  
25 to us meets all state minimum standards. The LEA has

1 concurred with the permit, and whether we like it or not  
2 they are the responsible agency for the issuance of this  
3 permit.

4           The Statement of Overriding Considerations, I  
5 find that this Board has no reason to not concur with  
6 that.

7           And insofar as the financial assurances, I have  
8 also been provided time and again, and we heard it  
9 today, that that, those are met and have been met to the  
10 satisfaction of our staff and the requirements of this  
11 Board.

12           Insofar as other issues that were concerned,  
13 insofar as the water quality is concerned and the  
14 aquifer, we just heard from the organizations whose duty  
15 it is to protect that, that they have been, their needs  
16 have been satisfied, their requirements have been met.

17           And I would like to say that as much -- how can  
18 I say it? -- the religious and the ethno cultural  
19 concerns that have been raised, it is my understanding  
20 from what I have read that the proponents, the  
21 applicants have made time and time again an effort to  
22 continue to provide the access that they have met those  
23 requirements. You will have the opportunity to ensure  
24 that those sites continue to be protected.

25           With that, you know, it's not easy to make some



1 of these decisions. I just cannot see it and I have not  
2 been provided with, with reasons for us to deny the  
3 permit.

4 And so as we go to take a vote, my  
5 understanding is first we have to make certain findings,  
6 or does the resolution take care of the findings?

7 Mr. Bledsoe?

8 LEGAL COUNSEL BLEDSOE: Madam Chair, the  
9 resolution contains the necessary findings.

10 BOARD CHAIR MARIN: The findings, okay. So  
11 then if you, if you would allow me, Michael, the  
12 resolution, the one that I have in front of me is  
13 2004-189 draft, that's what I have in front of me.

14 LEGAL COUNSEL BLEDSOE: Yes, it is.

15 BOARD CHAIR MARIN: Okay.

16 LEGAL COUNSEL BLEDSOE: And on the second page,  
17 Madam Chairman, we would need to make a few choices  
18 based on whatever the motion is and probably delete two  
19 of the paragraphs.

20 BOARD CHAIR MARIN: Okay. So the motion will  
21 contain, on the very first paragraph, that the whereas,  
22 that it adopts the state of overriding considerations?

23 LEGAL COUNSEL BLEDSOE: Correct.

24 BOARD CHAIR MARIN: And we would delete the  
25 second whereas, that is right, and we will delete the

1 next alternative paragraph?

2 LEGAL COUNSEL BLEDSOE: Yes.

3 BOARD CHAIR MARIN: Is there a motion to that  
4 effect?

5 LEGAL COUNSEL BLEDSOE: And then, Madam Chair,  
6 just at the very bottom under the resolved paragraph.

7 BOARD CHAIR MARIN: Yes, concurs, you're right.

8 LEGAL COUNSEL BLEDSOE: Thank you.

9 BOARD CHAIR MARIN: So the motion would be with  
10 those changes.

11 BOARD MEMBER MULE: I move approval of  
12 Resolution 2004-189.

13 BOARD CHAIR MARIN: Is there a second?

14 BOARD MEMBER WASHINGTON: Second.

15 BOARD CHAIR MARIN: Moved by Ms. Mule, second  
16 by Mr. Washington, Resolution 2004-189 with the changes  
17 as have been stipulated.

18 Call the roll, please.

19 BOARD SECRETARY JIMENEZ: Moulton-Patterson?

20 BOARD MEMBER MOULTON-PATTERSON: No.

21 BOARD SECRETARY JIMENEZ: Mule?

22 BOARD MEMBER MULE: Aye.

23 BOARD SECRETARY JIMENEZ: Paparian?

24 BOARD MEMBER PAPARIAN: No.

25 BOARD SECRETARY JIMENEZ: Washington?

1 BOARD MEMBER WASHINGTON: Aye.

2 BOARD SECRETARY JIMENEZ: Marin?

3 BOARD CHAIR MARIN: Aye. Okay. The permit  
4 then is not denied, it is approved, and do we need to  
5 have any --

6 BOARD MEMBER PAPARIAN: Madam Chair, I don't  
7 think that's quite legally accurate.

8 BOARD CHAIR MARIN: Okay. That's why I was  
9 looking at Michael.

10 LEGAL COUNSEL BLEDSOE: Madam Chair, failing to  
11 have a four vote affirmative majority to either concur  
12 in or object to the permit, at the conclusion of the  
13 sixty day period, the permit will be deemed to have, the  
14 Board will be deemed to have concurred in the permit.

15 BOARD CHAIR MARIN: Yeah, I knew that, I was  
16 just going to allow you to say that.

17 LEGAL COUNSEL BLEDSOE: Thank you.

18 BOARD CHAIR MARIN: Okay. Thank you very  
19 much.

20 BOARD MEMBER PAPARIAN: Just to be clear, I  
21 mean it's not, I mean I think there may be issues and  
22 questions about whether the Statement of Overriding  
23 Considerations is approved or not in that context, and  
24 that's something that may still need to be debated  
25 amongst the attorneys and legal experts.

1           LEGAL COUNSEL BLEDSOE: I would anticipate that  
2 that would be dealt with in litigation if this matter is  
3 litigated.

4           BOARD CHAIR MARIN: Okay. Any further comments  
5 or questions, anybody?

6           Okay. Thank you very, very much to everybody,  
7 and thank you, staff.

8           (Thereupon the foregoing was concluded  
9 at 4:40 p.m.)

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1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

2

3 I, DORIS M. BAILEY, a Certified Shorthand  
4 Reporter and Registered Professional Reporter, in and  
5 for the State of California, do hereby certify that I am  
6 a disinterested person herein; that I reported the  
7 foregoing proceedings in shorthand writing; and  
8 thereafter caused my shorthand writing to be transcribed  
9 by computer.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said proceedings, nor  
12 in any way interested in the outcome of said  
13 proceedings.

14 IN WITNESS WHEREOF, I have hereunto set my hand  
15 as a Certified Shorthand Reporter and Registered  
16 Professional Reporter on the 28th day of December, 2004.

17

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Doris M. Bailey, CSR, RPR, CRR  
Certified Shorthand Reporter  
License Number 8751

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